

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH: BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1477/Bang/2024
Assessment Year: 2018-19

Anil Agarwal No.302, 1 st Block, Sraddha Silver Spring Apartment Varthur Main Road Tubrahalli Bengaluru 560 066 Karnataka PAN NO : ACSPA2852J	Vs.	ITO Ward-3(3)(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Sri Saranakantha B., A.R.
Respondent by	:	Sri V. Parithivel, D.R.

Date of Hearing	:	09.09.2024
Date of Pronouncement	:	11.09.2024

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against order of Addl./JCIT(A)-1, Jaipur/NFAC vide DIN & order No.ITBA/APL/S/250/2024-25/1065447077(1) dated 6.6.2024 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act:”) for the assessment year 2018-19.

2. The appeal is filed belatedly by 2 days before this Tribunal. The ld. A.R. for the assessee submitted an affidavit along with a petition explaining the reasons in filing the appeal belatedly which are reproduced as under:

No. 302, 1st Block
Sraddha Silver Spring Apartment,
Varthur Main Road, Tubrahalli,
Bangalore 560048, Karnataka Versus

APPELLANT

RESPONDENT

APPLICATION FOR CONDONATION OF DELAY U/S. 253(5)
OF THE ACT

1. The Petitioner/ Appellant Firm begs to submit that an appeal is filed against an Appellate Order dated 06-06-2024 passed u/s. 250 of the Act by the Learned Commissioner of Income Tax (Appeal)-5, Bangalore. The Appeal so filed is with the delay of 3 days, according to which the Appeal was required to be filed on or before 05-08-2024 but the Appeal is filed on 08-08-2024.
2. The Petitioner/ Appellant Firm submits that the Appeal could not be filed within the time limit on account of the fact that the Petitioner/ Appellant Firm has engaged its representative Sarakantha B, Chartered Accountant, to represent the Income Tax matters on its behalf.
3. The Petitioner/ Appellant Firm submits that the Appeal could not be filed within the time limit since the former AR has not brought to the Notice of the Appellant firm the dismissal and also the service of the Order until 08-08-2024 and immediately thereafter the Appellant Firm has made arrangement to file an Appeal against the arbitrary Appellate Order dated: 06-06-2024.
4. Therefore, the Petitioner/ Appellant submits that the delay in filing the Appeal is attributed to the Office of the former AR, but it is neither deliberate nor intentional. Thus, the Petitioner/ Appellant Firm was prevented by sufficient cause in not filling the Appeal within the prescribed time limit.

NO. OF CORRECTIONS :.....

all



5. The Appellant begs to place reliance on the Hon'ble Jurisdictional High Court vide order dated 28/10/2011 in the of ISRO Satellite Centre in ITA No. 532/2008 wherein it was held that in Income Tax matters, delay in filing the Appeal on the part of the Assessee should be condoned irrespective of the length of delay and the Jurisdictional ITAT in its order dated 07-08-2015 in ITA No. 1078/Bang/2014 in the case of Glen Williams v/s. ACIT Circle - 1(1) has followed the decision of the Hon'ble Jurisdictional High Court.

Under these facts and circumstances of the case, the Petitioner/Appellant respectfully prays that your Hon'ble Authority be pleased to condone the delay of 3 days which was neither intentional nor deliberate and further be pleased to admit the Appeal for adjudication on the basis of the Grounds of Appeal and also on merits of the case in the interest of equity and justice or otherwise, the Petitioner/Appellant Firm would suffer from irreparable loss and denial of justice. On the other hand, the Respondent (Department) would not suffer from any hardship if the Appeal is admitted by condonation of delay of 3 days.

Date: 07/08/2024
Place: Bangalore

Anil Agarwal
(PETITIONER/APPELLANT)



ATTESTED BY ME

Veena J.
VEENA J., B.A., LL.B.,
ADVOCATE & NOTARY PUBLIC
GOVT. OF INDIA
No.247, AKG Colony,
Opp. to MVJ College, Channasandr
Kadugodi Post, Bengaluru - 560 08

7 AUG 2024

NO. OF CORRECTIONS: all

2. We have gone through the reasons explained by the assessee for filing the appeal belatedly for 2 days although stated by assessee as 3 days and satisfied that there is a good and sufficient reason in

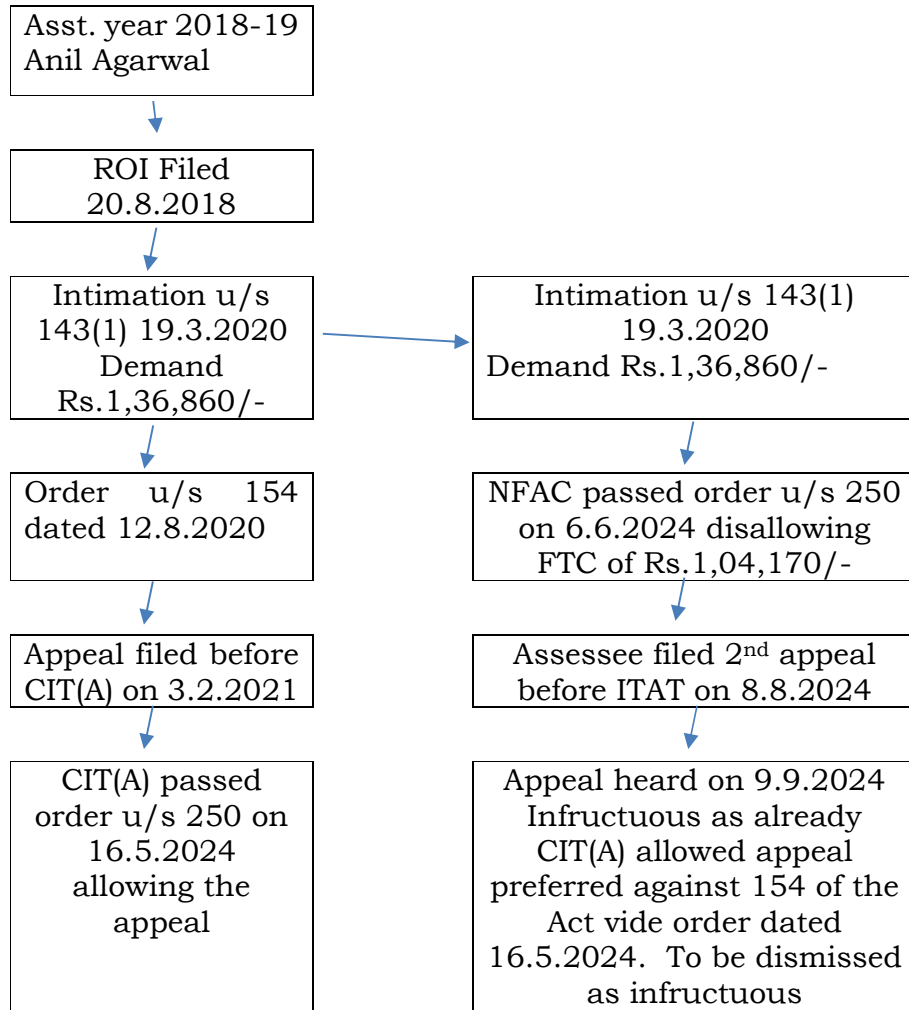
filing the appeal belatedly before this Tribunal and accordingly, we condone the short delay of 2 days and decide to adjudicate the appeal on merits.

3. Brief facts of the case are that the Assessee is an employee of M/s. Intel Technology India Private Limited. For the Assessment Year 2018-19 the Assessee had filed his return on 20-08-2018 declaring an income of Rs 1,28,67,350/- inclusive of dividend income of Rs.4,16,679/- on shares of parent company M/s. Intel Corp USA. Though the Assessee declared his income and claimed relief of Rs.1,04,169/- u/s 90 & 90A on the dividend income earned at USA the same was not taken cognizance of by the Department while passing the intimation dated 19.3.2020 u/s 143(1) of the Act. Further, the Assessee was also denied credit of Rs.2,442/- being TDS made by HDFC Bank. These 2 denials have resulted in levy of interest u/s 234B of Rs.27,652/- and u/s 234(C) of Rs.2,593/- and accordingly total demand of Rs.1,36,860/- was raised.

3.1 Against the above intimation passed u/s 143(1) of the Act, the assessee preferred a rectification under the provisions contained u/s 154 of the Act. The AO/CPC passed the order of Rectification u/s 154 of the Act vide order dated 12.8.2020. Again, aggrieved by the order of AO/CPC dated 12.8.2020 the assessee preferred an appeal before the CIT(A)/NFAC. The ld. CIT(A)/NFAC vide order dated 16.5.2024 had allowed the appeal in full for the assessment year 2018-19.

3.2 On the other hand, in the meanwhile, the assessee also went with a different appeal before ld. CIT(A) on 1.7.2020 on the same issue against intimation passed u/s 143(1) of the Act dated 19.3.2020, wherein the NFAC/CIT(A) has passed order u/s 250 of the Act on 6.6.2024 disallowing the Foreign Tax Credit of Rs.1,04,170/-. Aggrieved the assessee filed the present appeal before this Tribunal on 8.8.2024.

4. We have heard both the parties and perused the materials available on record. We are summarizing below the entire facts of the case by way of chart for ease of reference and understanding:



4.1 We are of the opinion that since the assessee's appeal before ld. CIT(A) filed on 3.2.2021 was already decided on merit by passing order u/s 250 of the Act dated 16.5.2024 by allowing the appeal of the assessee, the present appeal before us needs no further adjudication and it becomes infructuous and hence dismissed as infructuous.

5. In the result, appeal of the assessee is dismissed.
Order pronounced in the open court on 11th Sept, 2024

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

SD/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 11th Sept, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.