

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.61/Nag./2024**  
(Assessment Year : 2014-15)

Gurindersingh Indrajeetsingh Nayyar  
101, Shelter Regency, Nelsons Square  
Katol Road, Nagpur 440 002 AASPN8256D

..... Appellant

v/s

Dy. Commissioner of Income Tax  
Circle-2, Nagpur

..... Respondent

Assessee by : Shri Abhay Agrawal  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 10/09/2024

Date of Order – 18/09/2024

**ORDER**

**PER K.M. ROY, A.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 30/11/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2014-15.

2. In its appeal, the assessee has raised following grounds:-

*"1. Whether on the facts and in law, the order passed by learned CIT(A) u/s 250 of the Act is bad in law.*

*2. Whether on the facts and in Jaw, the learned CIT(A) erred in upholding the action of learned AO in making addition Rs.30,71,500 u/s 56(2)(vii)(b) of the Act to income of the assessee, ignoring the facts of the case as well as submissions and documentary evidences filed by the assessee.*

*3. Whether on the facts and in law, the learned CIT(A) erred in rejecting request for condonation of delay in filing appeal without issuing any show cause notice providing opportunity of being heard to the assessee.*

*4. The Assessee craves to add, alter, vary, omit, amend or delete one or more of the above grounds of appeal before, or at the time of, hearing of the appeal, so as to enable the Hon'ble Tribunal to decide this appeal according to law."*

3. We have examined the facts of the case. There is a delay of 4 days in filing the appeal before us. The assessee has filed an affidavit disclosing the reasons for delay in filing the appeal and requested for admission of the appeal. Considering the reasons and smallness of delay, the same is condoned and proceed to ride the cycle of adjudication.

4. The learned AR submitted that, present appeal was filed against the order passed by the learned CIT(A) whereby, the learned CIT(A) did not admit the appeal of the assessee on the ground that the said appeal was filed with a delay of 121 days. The learned AR submitted that, there was a delay in filing the appeal before CIT(A) based on reasonable grounds. The AR submitted that, the reassessment proceedings for AY 2014-15 were carried down during the COVID period and finally the assessment order was passed on 19<sup>th</sup> March 2022. Thus, the notices issued during the reassessment proceedings could not be complied with by the assessee. Further, it was only when the notice under section 271(1)(b) was issued for non-compliance dated 28<sup>th</sup> July 2022, the assessee came to know about the ex-parte order passed under section 147 r.w.s. section 144 dated 19<sup>th</sup> March 2022. Thereafter, the assessee immediately consulted his counsel and arranged to file the appeal before learned CIT(A) on 17/08/2022.

5. The learned AR also submitted that, during appellate proceedings before learned CIT(A), the assessee was asked to furnish his written submissions on merits. The assessee had furnished a written submission on merit copy of which is also enclosed the paper book. However, it seems that, the learned CIT(A) has ultimately passed the order on the limitation ground and not on merits of the case. It is quite peculiar that the appeal can be taken up for hearing only when delay is condoned. It seems that the learned CIT(A) had condoned the delay.

6. We find that, the reassessment proceedings were indeed carried out during the COVID period. There were difficulties faced by the assessee and their consultants during the COVID period for making due compliances. The Hon'ble Supreme Court had taken cognizance of the difficulty faced during COVID period and vide their order passed in Suo Moto Writ petition No.3 of 2020 extended the time for making various statutory compliances. The Hon'ble Supreme Court had excluded period between 15 March 2020 to 28 February 2022 from the limitation period for making the compliances in respect of orders passed between the aforementioned period. Further the Hon'ble Supreme Court has also provided a further period of 90 days starting from 01<sup>st</sup> march 2022 for making the due compliances which fell due during aforementioned period. Hence, we feel that the assessee was precluded from effectively participating in the proceedings. The delay of 121 days before the learned CIT(A) will be pruned accordingly in line of the above contention.

7. Therefore, having considered the facts of the case, with a view to advance substantial justice, we hereby condone the delay in filing the appeal before learned CIT(A). We find that, the assessee could not appear before the learned AO during assessment proceedings and best judgement assessment order was passed. Therefore, we hereby restore the matter back to the files of jurisdictional AO to decide the same on merits since the appeal of discord lies in a narrow compass. Therefore, the appeal of assessee stands allowed for statistical purposes.

8. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 18/09/2024

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**NAGPUR, DATED: 18/09/2024**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur