

IN THE INCOME TAX APPELLATE TRIBUNAL  
Mumbai "G" Bench, Mumbai.

Before Shri Satbeer Singh Godara (JM) & Shri Omkareshwar Chidara (AM)

I.T.A. No. 2479/Mum/2024 (A.Y. 2013-14)

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| Surendra Bhaskaran Kurup<br>102 D Wing, Lake Florence<br>Lake Homes, Phase 1, Near<br>Gopal Sharma School, Powai<br>Mumbai-400 076.<br><br>PAN : ABZPK8287D<br>(Appellant) | Vs. | THE CIT(A)<br>ITO 35(3)(4)<br>Mumbai.<br><br>(Respondent) |
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|                       |                       |
|-----------------------|-----------------------|
| Assessee by           | None                  |
| Department by         | Shri Prashant Mahajan |
| Date of Hearing       | 25.07.2024            |
| Date of Pronouncement | 26.08.2024            |

ORDER

Per Omkareshwar Chidara (AM) :-

In the above captioned appeal, the learned Commissioner of Income Tax (Appeals) [Ld. CIT(A) for short] dismissed the appeal of appellant for want of compliance notices issued by the Department.

2. The appellant is an employee of a private company M/s. Leeway Logistics at Gurgaon, but the residential address in the Return of Income was stated as Powai, Mumbai. From the AIR information, it is seen that the assessee purchased an immovable property for Rs. 1.2 crore. It was mentioned in the assessment order that the assessee did not file proper particulars of HRA exemption and bank interest. So, the learned Assessing Officer (Ld. AO for short) added the HRA received, cost of investment in property and bank interest while completing the assessment. As the assessee did not respond to the several notices issued by Ld. AO, the assessment was completed by making above three additions.

3. Aggrieved by the additions, the appellant filed an appeal with the Ld. CIT(A) with a delay of three and half years and the appellant sought condonation of delay in filing of appeal. The reasons for delay in filing of appeal are said to be ill health of himself and his father. It was submitted that he has not purchased any property, and that property mentioned in Assessment Order was purchased by his brother. The Ld. CIT(A) was not convinced with the reasoning given by the appellant for delay in filing an impugned appeal. After quoting several cases-law, the Ld. CIT(A) has dismissed the appeal of appellant by concluding that there is no valid reason for filing an appeal with delay and no valid reasons were given for not responding to several notices issued by Ld. AO.

4. Then, the appellant filed an appeal before the Hon'ble ITAT, Mumbai with almost same grounds of appeal. It was pleaded before the Ld. CIT(A) that the assessee should not be penalised for not explaining the sources for purchase of property by his brother, who is an NRI. It was also mentioned in "Grounds of Appeal" that the Ld. CIT(A) simply dismissed the appeal because of delay in filing of appeal and did not adjudicate the case on merits.

5. Per contra, the Ld. DR supported the orders of lower authorities and argued that the delay was not condoned by the Ld. CIT(A) correctly as there was no response from appellant even though several opportunities were provided to him and even before the Ld. CIT(A), there is delay in filing appeal.

6. Heard both sides. It is a fact that the appellant did not respond to the notices issued by Ld. AO and there is inordinate delay in filing of appeal before the Ld. CIT(A). But, the Ld. CIT(A) also did not adjudicate the case on merits. The major addition is with respect to property purchased by the appellant as per the AIR information. The assessee pleaded before the Ld. CIT(A) that the property was not purchased by him, but purchased by his brother who is NRI and only he can explain the sources. During the hearing

before the ITAT, none appeared for appellant. So, we are inclined to remit the whole matter to the file of the Ld. CIT(A). The Ld. CIT(A) is directed to give three effective opportunities and the appellant is directed to provide all the necessary details to the Ld. CIT(A). Decision may be taken by the Ld. CIT(A) after taking into the material submitted by appellant.

7. The appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 26<sup>th</sup> August, 2024.

Sd/-  
(Satbeer Singh Godara)  
Judicial Member

Sd/-  
(Omkareshwar Chidara)  
Accountant Member

Mumbai : 26.08.2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai