

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"A" BENCH, MUMBAI**

**BEFORE SHRI. AMARJIT SINGH, ACCOUNTANT MEMBER AND**  
**SHRI. SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA no. 4004/Mum./2024**  
(Assessment Year :2017-2018)

**Atmaram Baburao Jadhav**

525, Bramsidhi Bldg Sh Tandel Marg  
Mumbai - 400025.  
PAN-ADCPJ4735G

..... Appellant

v/s

**Income Tax Officer Circle 22(1)**

Piramal Chambers, Mumbai - 400012.

..... Respondent

Assessee by :None

Revenue by :Shri. Ram Krishna Kedia (Sr. DR)

Date of Hearing - 16/09/2024

Date of Order - 20/09/2024

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 29/07/2024 passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*learned CIT(A)*], for the assessment year 2017-18.

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

1. *The learned CIT(A) faceless erred in not condoning the delay in filing the appeal though the assessee explained that the delay was account of reasons beyond assessee's control and also submitted the affidavit explaining the reasons.*

2. *The Learned CIT(A) erred in ignoring the judgment of the Supreme court in the case of Collector of Land Revenue v Mrs Katiji& Others 167 ITR 471 (SC) submitted along with the condonation application.*
3. *The Learned Assessing Officer and CIT(A) erred in assessing the total income at Rs 1,41,44,840/- instead of Rs 9,29,410/- as represented by the assessee.*
4. *The Learned Assessing Officer and CIT(A) erred in facts and law by making an addition of Rs 35,00,000/- under the head Short Term Capital Gains.*
5. *The Learned Assessing Officer and CIT(A) erred in facts and laws making an addition of Rs 76,10,430/- u/s 69 r.w.s. 115BBE.*
6. *The Learned Assessing Officer and CIT(A) erred in making an addition of Rs 20,55,500/- u/s 56(2)(vii)(b) being the difference between the stamp duty value and the consideration paid.*
7. *The Learned Assessing Officer and CIT(A) erred in making an addition of Rs 59,500/- being short declaration of salary income.*
8. *The Learned Assessing Officer and CIT(A) erred in not granting deductions u/s 54 and 54F of the Income Tax Act, 1961 in respect of purchase of residential house property against the sale of house property and tenancy rights respectively.*
9. *The assessee craves leave to add, alter, amend, and delete any of the above grounds of appeal."*

3. We have considered the submissions of both sides and perused the material available on record. In the present case, at the outset, it is evident that the learned CIT(A) has passed the order dismissing the appeal filed by the assessee on the ground of delay without adjudicating the grounds raised by the assessee on merits against the additions made by the Assessing Officer ("AO") vide order dated 25/04/2023 passed under section 147 r/w section 144 r/w section 144B of the Act. From the perusal of the impugned order, we find that the assessee requested for condonation of delay in filing the appeal and also explained the circumstances leading to a delay of 301 days in filing its appeal before the learned CIT(A). The reasons stated by the

assessee before the learned CIT(A) for seeking condonation of delay in filing the appeal are as follows: -

*"1. We have to state that the assessee during the year sold his house property located at Prabhadevi and shifted to his new residence. The address on the Income tax portal was not updated and the physical notices were received at his old Prabhadevi residence.*

*2.The email id on the Income Tax portal was of the accountant of the assessee who had no knowledge about the provision of the Income Tax Act, 1961 and failed to forward the mails to the assessee to reply to the notices or take necessary actions.*

*3.The assessee was made aware that an order has been passed only after his neighbour at his old residence physically handed over the notices and order to the assessee for taking or taking actions.*

*4.The assessee then forwarded the copy of the order and the notices to its Authorised Representative for taking necessary action including filing of an appeal.*

*5.We have to state that the delay in filing appeal was beyond the control of the assessee and due to unavoidable circumstances and no malafide was intended by the assessee.*

*6.We bring your Honor's attention towards the case of Collector of Land Revenue v Mrs Katiji& Others 167 ITR 471 (SC) where the Hon'ble Supreme Court has held that the courts should have pragmatic and liberal approach in admitting the appeal beyond the period of limiting.*

*7.In view of the above, it being reasons beyond the control of the assessee, we hope your Honor will condone the delay and oblige."*

4. As is evident from the impugned order, the learned CIT(A) did not agree with the submissions of the assessee and held that the assessee had failed to prove that there was sufficient reason for condonation of delay in filing the appeal. Accordingly, the learned CIT(A) dismissed the appeal filed by the assessee on the ground of delay. During the hearing, no material was brought on record to controvert the submission of the assessee made before the learned CIT(A) seeking condonation of delay.

5. In view of the facts and circumstances of the present case, as noted above, we are of the considered view that the assessee has proved sufficient cause for not filing the appeal before the learned CIT(A) within the prescribed limitation period. Accordingly, we are of the view that the said delay should be condoned. Hence, we deem it appropriate to set aside the impugned order and restore the matter to the file of the learned CIT(A) for consideration on merits, as per law, after condoning the delay in filing the appeal by the assessee. We order accordingly. Needless to mention no order shall be passed without affording reasonable opportunity of hearing to the parties. The assessee is directed to appear before the learned CIT(A) on all the dates of hearing as may be fixed without any default. As the matter is being restored to the file of the learned CIT(A) for adjudication on merits, the other grievances raised by the assessee in the present appeal do not call for adjudication at this stage. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 20/09/2024

**Sd/-**  
**AMARJIT SINGH**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 20/09/2024**

*Copy of the order forwarded to:*

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

By Order

Assistant Registrar  
ITAT, Mumbai