

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI PRASHANT MAHARISHI ACCOUNTANT
MEMBER**

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 611/MUM/2024
(Assessment Year : 2011-12)**

Canadian Kay Pump Ltd. C.M. Gabhawala And Co, Girgaon S.O, Mumbai-400004.	Vs.	Assistant Commissioner INT Tax Circle 2(1)(1), Air India Building, Income Tax Department, Mumbai.
PAN/GIR No. AAACC6132E		
(Appellant)	..	(Respondent)

Assessee by	Shri. Ketan Ved
Revenue by	Shri. Krishnakumar Sr. DR
Date of Hearing	12/09/2024
Date of Pronouncement	13/09/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 15.12.2023 passed in Appeal no. CIT(A) 56, Mumbai/10025/2010-11 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the

Assessment year [A.Y.] 2011-12, wherein learned CIT(A) has dismissed assessee's appeal upon rejection of assessee's prayer for the condonation of delay.

2. According to the impugned order, appellant assessee filed first appeal before learned CIT(A) on 10.03.2023 against the intimation order passed u/s. 143(1) dated 17.01.2012 with a delay of 4036 days.
3. Learned representative for the assessee has submitted that appellant never received the intimation u/s. 143(1) dated 17.01.2012 before 08.02.2023. He has further submitted that according to the statement of facts filed before learned CIT(A), the appellant filed rectified return of income on 02.05.2017 as the original return had certain errors on account of not claiming exemption u/s. 10(34) of the Act. Assessee thereafter received intimation u/s. 143(1) dated 17.01.2012 on 08.02.2023 only. After receiving the order, assessee, filed first appeal on 10.03.2023 which was within 30 days. An affidavit dated 06.09.2024 on behalf of Shri. Mahesh Bhave an authorized signatory of the assessee company has also been filed to this effect. Learned representative thus submits that the first appeal was filed within 30 days from the date of communication of the order u/s. 143(1) of the Act.
4. Learned DR has vehemently supported the impugned order.
5. We have heard learned representatives for both the parties and perused the material available on record.
6. It appears that learned CIT(A) has dismissed assessee's first appeal solely upon rejection of assessee's prayer for the

condonation of delay of about 4036 days in filing the same. The limitation period for filing an appeal before learned CIT(A) u/s. 249(2) of the Act is 30 days. However, section 249(3) of the Act empowers the first appellate authority to condone the delay if satisfied that appellant had sufficient cause for not presenting it within that period. Learned CIT(A) was, however not convinced to condone the said delay of 4036 days in filing the first appeal.

7. Considering the unrebutted submissions on behalf of appellant assessee that the order u/s. 143(1) dated 17.01.2012 was received by the assessee on 08.02.2023, we deem it sufficient cause to condone the said delay of 4036 days caused in filing the first appeal before the first appellate authority. The delay is accordingly condoned.
8. In the result, the appeal is allowed in above terms. The impugned order dated 15.12.2023 is set aside. The delay in filing the first appeal before the first appellant authority i.e before learned CIT(A) stands condoned. We restore the matter back to the file of learned CIT(A) for passing order afresh on merit in accordance with law. Needless to say that the first appellate authority shall ensure the substantial compliance of the principles of natural justice.

Order pronounced on 13.09.2024.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 13/09/2024

Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai