

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

I.T.A.Nos.1630, 1631 & 1632/PUN./2024  
Assessment Years 2016-2017, 2017-2018 and 2018-2019

Shri Sanjay Ganpat Aher, Plot No.88, Chopra Chordiya Nagar, Lam Road Soubhagyanagar Vihitgaon, NASHIK. PIN - 422 101. PAN AIXPA7215N Maharashtra.	vs.	The Income Tax Officer, Ward-2(1), Kendriya Rajaswa Bhawan, Gadkari Chowk, Old Agra Road, Nashik - 422 022. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Smt. Deepa Khare
For Revenue :	Shri B.S. Rajpurohit, Addl. CIT

Date of Hearing :	26.09.2024
Date of Pronouncement :	27.09.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M.**

These assessee's three appeals I.T.A.Nos.1630, 1631 & 1632/PUN./2024, for assessment years 2016-2017, 2017-2018 and 2018-2019, arise against the as many orders of the learned CIT(A)-National Faceless Appeal Centre [in short the "NFAC"] Delhi, Delhi's Din and Order Nos.ITBA/ NFAC/S/ 250/2024-25/1066242113(1); 1066242055(1) and 1066242164(1); all dated 29.06.2024, in proceedings u/s.147 r.w.s.144 of the Income Tax Act, 1961 (in short "the Act"); assessment year-wise, respectively.

Heard both the parties. Case files perused.

2. A combined perusal of the assessee's instant three appeals I.T.A.Nos.1630, 1631 & 1632/PUN./2024, for assessment years 2016-2017, 2017-2018 and 2018-2019, suggests that the learned CIT(A)-NFAC has refused to condone the delay of 238 days each as not supported by justifiable reasons beyond his control. He has further taken note of hon'ble apex court's decision in Pathapati Subba Reddy (died) by LRs. vs. Special Deputy Collector (L.A.) Special Leave Petition (Civil) No.31218 of 2018 dated 08.04.2024.

3. It is noticed in this factual backdrop that the learned Assessing Officer had framed all the three impugned assessments on the same day i.e., 21.08.2021 u/sec.144 of the Act invoking "best judgment" on account of non-cooperation coming from the taxpayer's side. The assessee has admittedly filed all the three instant lower appeals before the CIT(A)-NFAC on 21.01.2023 is suffered from 238 days delay each. He attributed the reasons thereof to various technical glitches that the Assessing Officer's notice(s) as well as the corresponding demand(s) had been received in "spam". It is this clinching reason which stands rejected in the identical lower appellate discussion by the CIT(A)-NFAC that the same does not form a justifiable reason.

4. We have given our thoughtful consideration to the assessee's pleadings and Revenue's vehement contentions in support of the respective stands. We observe that the necessary inference which flows from the above narrated facts is that the assessee could not put in appearance before the Assessing Officer along with all the relevant details because of Covid-2019 pandemic outbreak and the period thereof already stands excluded up-to 28.02.2022 by the hon'ble apex court in *Cognizance for Extension of Limitation, In re 438 ITR 296 (SC)* read with judgment in *Cognizance for Extension of Limitation, In re 432 ITR 206 (SC)* dated 08-03-2021 and 421 ITR 314 for all intents and purposes under the limitation law. That being the case, in light of the fact that assessee has already filed his explanation attributing the impugned further delay of 234 days each because of some glitches in the e-mail folder, we conclude that his remedy of pursuing various grievances could not be allowed to be jeopardized. We thus deem it as a fit case to condone the impugned delay of 238 days each in filing of the lower appeal before the CIT(A)-NFAC and restore the matter back to the Assessing Officer for his afresh adjudication, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and responsibility only to plead and prove all the relevant facts in consequential proceedings. Ordered accordingly.

5. These assessee's instant three appeals I.T.A.Nos. 1630, 1631 & 1632/PUN./2024 are allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 27.09.2024.

Sd/-  
[INTURI RAMA RAO]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 27<sup>th</sup> September, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "SMC" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,  
Pune.