

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

**BEFORE: SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT
MEMBER**

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 3483/MUM/2024
(Assessment Year : 2018-19)**

Mahanagar Vyapari Nagrik Patsanstha Maryadit Shop No. 1, Municipal Colony, Khardeo Nagar, Chembur, Mumbai-400071.	Vs.	Income Tax Officer Ward- 27(2)(1) IT office Vashi Railway Station Building, Navi Mumbai-400705.
PAN/GIR No. AAAAM9636R		
(Appellant)	..	(Respondent)

Assessee by	Shri. Mr. Kumar Kale, Adv.
Revenue by	Shri. Smt. R. M. Brindha, Addl. JCIT (Virtual Mode)
Date of Hearing	25/09/2024
Date of Pronouncement	01/10/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 17.05.2024 passed in Appeal no. ADDL/JCIT (A)-2 BENGALURU/10005/2017-18 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.] 2018-19, wherein learned CIT(A) has dismissed the assessee's appeal upon rejection of delay condonation application.

2. The brief facts related to the appeal state that the assessee co-operative credit society filed return of income for A.Y. 2018-19 after deduction u/s. 80P of the Act. The intimation order u/s. 143(1) of the Act was processed on 22.10.2019, wherein the demand of Rs. 6,11,170/- was raised by the revenue against which assessee preferred an appeal before learned CIT(A) on 10.04.2024 by a delay of about 1601 days. Assessee prayed for the condonation of delay in filing first appeal on the ground that the assessee society was not conversant with the change of the new ITA portal and the society was of the view that it will get the usual deduction u/s. 80P of the Act, which was denied by the CPC. It was also submitted before learned CIT(A) that the wide spread global pandemic covid-19 was also one of the reason for the delay in filing first appeal. Learned CIT(A) was however not impressed with the reasons disclosed for the delay in filing first appeal and dismissed assessee's appeal upon rejection of the prayer for the condonation of delay.
3. Assessee has filed this appeal on the ground that learned JCIT(A) has erred in not condoning the delay without affording sufficient opportunity of hearing to the assessee.
4. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.

5. We have perused the records and heard learned representative for both the parties.
6. Learned AR has submitted that the assessee filed delay condonation application before learned CIT(A) on the ground that most of the part of duration fell under the period of spread of global pandemic covid-19. During the period the income tax department switched over to the new income tax portal by replacing old one. The new portal was slow, this was beyond the control of the assessee. Learned AR has prayed to condone the said delay and set aside the impugned order and direct learned CIT(A) to pass the order on merit afresh.
7. Learned DR has supported the impugned order.
8. We notice that the intimation order u/s. 143(1) of the Act was processed on 22.10.2019, wherein the demand of Rs. 6,11,170/- was raised by the revenue against which assessee preferred an appeal before learned CIT(A) on 10.04.2024 by a delay of about 1601 days.
9. We take judicial notice of the fact that most of the duration of delay caused in filing appeal before the first appellate authority overlaps the period of spread of global pandemic COVID-19. This fact has also been taken care of by Hon'ble Supreme Court in Misc. app. No. 21/2022 in Misc. app No. 665/2021 in suo-moto W.P(c) No. 3/2020 in civil original jurisdiction and in re-cognizance of extension of limitation with miscellaneous application No. 29/2022, in miscellaneous application No. 655/2021 in suo-moto petition(c) no. 03/2020 and vide para 5(1) of its order dated 10.01.2022, directed that

its order dated 23.03.2020 is restored and in continuation of the subsequent order dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings after exclusion of the aforesaid duration. Learned CIT(A) has still not condoned the delay of remaining about less than 800 days.

10. It is well established principle of law that the substantial justice cannot be denied on technical aberrations. In an adversial justice system like ours, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Justice is the goal of jurisprudence. Any interpretation which eludes or frustrates the recipient of justice can not to be followed. The technical glitches, in the IT portal, change of representative (ITP), are the addl grounds in addition to the ground related to the spread of COVID-19, shown by the assessee. In the totality of facts and circumstances of the case and to advance the cause of justice, we, deem it just and proper to condone the delay of aforesaid remaining days. We, accordingly condone the said delay in filing the first appeal before the first appellate authority.
11. In the result, the appeal is allowed. The impugned order dated 17.05.2024 is set aside. The delay in filing the first appeal 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 01.10.2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 01/10/2024
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