

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

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

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 3999/MUM/2024
(Assessment Year : 2018-19)**

Alpesh Premji Dedhia A-702, Kandivali Kesar Ashish CHS Ltd., Near Vasant Complex, Mahavir Nagar, Kandivali (West), Mumbai-400067.	Vs.	ITO-Ward 33(1)(1) Kautilya Bhavan, C-41 to C-43, G Block, Bandra Kurla Complex, Bandra(East), Mumbai-400051
PAN/GIR No. AGNPD9110F		
(Appellant)	..	(Respondent)

Assessee by	Shri. Vimal Punmiya a/w Mitesh Shah, CA
Revenue by	Shri. Uodal Raj Singh (SR.DR.)
Date of Hearing	24/09/2024
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 04.06.2024 passed in Appeal no. NFAC/2017-18/10081525 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 assessee's appeal upon rejection of delay condonation application.

2. The brief facts that give rise to the appeal state that appellant assessee filed his return of income on 16.10.2018 for A.Y. 2018-19, disclosing total income of Rs. 10,39,020/-. The case was selected for scrutiny. Statutory notices u/s. 143(2) and 142(1) were issued to the assessee with regard to the transaction of property calling upon the assessee to show the reason of difference between transaction amount and value determined by stamp valuation authority. Assessee responded and replied to the notices issued by learned assessing officer. After considering the submissions of the assessee, learned assessing officer made an addition of Rs. 23,21,000/- u/s. 56(2)(x) of the Act. Aggrieved by the assessment order, assessee preferred an appeal before learned CIT(A), who dismissed assessee's first appeal upon rejection of assessee's delay condonation application.
3. Aggrieved by the impugned order, assessee filed this appeal on the ground that learned CIT(A) has passed impugned order without considering the delay condonation application moved by 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 representatives for both the parties.

6. Learned AR has submitted that the assessee had filed delay condonation application on the income tax portal, indicating its mention at sr. no. 6 of the e-proceedings response acknowledgement. Further submitted that the first appeal was filed on 09.08.2021 against the assessment order dated 10.03.2021 which was received by assessee on 31.03.2021. It is further submitted that there was a delay of 101 days, however, learned CIT(A) has not considered the said delay condonation application. It is further submitted that the said delay was caused during global pandemic covid-19. The other cause for the delay was stated to be due to the income tax department switched over to the new income tax portal by replacing old one. The new portal was slow, hence, timely appeal could not be filed. These conditions were beyond the control of the assessee. Learned AR has prayed to condone the said delay caused in filing first appeal and to 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 assessee filed first appeal before learned CIT(A) on 09.08.2021 against the assessment order dated 10.03.2021 which is said to be received by the assessee on 31.03.2021. Hence, the assessee filed first appeal by a delay of about 101 days before learned CIT(A). We further notice that the copy of delay condonation application shown at page 20 of the assessee's paper book is addressed to the Commissioner of Income Tax. It's submission before the learned CIT(A) is

further mentioned at SL. No. 6 of the acknowledgement. However, the same has not been considered by learned CIT(A).

9. In the interest of justice and with a view to expedite the proceedings, we deem it just and proper to condone the said delay of 101 days in filing the appeal before the first appellate authority. The delay is accordingly condoned.
10. In the result, the appeal is allowed in above terms. The impugned order dated 04.06.2024 is set aside. The appeal is restored back to the file of the learned CIT(A) for statistical purposes.

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