

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “SMC”, MUMBAI
BEFORE MS. PADMAVATHY S., ACCOUNTANT MEMBER
AND
SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
ITA NO. 3558/MUM/2024 (A.Y: 2019-20)**

UTI Spectrum Fund
3rd Floor, 355 Nex, Rue Du Savoir,
Cybercity Ebene, Mauritius – 72201.
PAN: AABCU0174B

(Appellant)

Vs. Assistant Commissioner of
Income Tax - International
Tax Circle 4(3)(1)
International Tax Circle
4(3)(1), Kautilya Bhavan, G
Block, Bandra Kurla Complex,
Bandra East, Mumbai –
400051.

(Respondent)

**Assessee Represented by : Ms. Angha
Gangurde/Shubhangini Das**
**Department Represented by : Shri. V. K. Chaturvedi Sr.
AR**
Date of conclusion of Hearing : 17.09.2024
Date of Pronouncement : 08.10.2024

ORDER

PER RAJ KUMAR CHAUHAN (J.M.): -

1. This appeal is filed by the appellant/assessee against the order dated 15.05.2024 of Learned Commissioner of Income Tax (Appeals), 58,



Mumbai [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] for the A.Y. 2019-20.

2. The assessee is in appeal before us and has raised following grounds:

1. *“That on the facts and circumstances of the case, the Ld. CIT(Appeals) has grossly erred in not condoning the delay in filing of the appeal.*
2. *That on the facts and circumstances, the learned CIT(Appeals) failed to consider the fact that the delay in filing the appeal was not deliberate and was on account of delay in resolution to be provided by the Centralized Processing Centre ('CPC')/Assessing Officer ('AO') and thereby not attributable to the Appellant.*
3. *That on the facts and circumstances of the case, the learned CIT(Appeals) erred to comprehend that the term "sufficient cause" for condonation of delay should be interpreted liberally to advance substantial justice to the Appellant.*
4. *That on the facts and circumstances of the case, the Ld. CIT(Appeals) erred in not examining the Appellant's case on principles of natural justice considering the fact that in the intimation u/s 143(1), short term capital gain has been considered at INR 36,90,994/- instead of INR 18,45,497/- resulting in double taxation of the same income twice at different rates”.*

3. Assessee vide its letter prayed for withdrawal of appeal in ITA No. 3558/Mum/2024 for A.Y.2019-20. For the sake of convenience, we are reproducing the contents of the said Application as under: -

“With reference to the above captioned subject, we would like to inform that your honor has asked us to appear before the Hon'ble ITAT, 'SMC' Bench, Mumbai for an appeal hearing scheduled on 17-09-2024.



The Appellant had filed Return of Income ('ROI') u/s 139(1) of the Act for AY 2019-20 on 19-09-2019 declaring a total income of INR 19,00,460/-. Accordingly, the ROI was processed by the Centralized Processing Centre ('CPC') and thereby intimation u/s 143(1) of the Act was issued dated 30-04-2020.

As per the aforesaid intimation, the CPC has inadvertently considered the Short term Capital Gains ('STCG') at INR 36,90,994/- instead of INR 18,45,497/- as computed in the ROI thus resulting in double addition of same income. Thus, determining a total income of INR 37,45,950/- and demand payable of INR 3,42,890/-. The Appellant filed an appeal before the Commissioner of Income Tax (Appeals) ['CIT(Appeals)] along with condonation for delay against the said intimation. However, the CIT(Appeals) dismissed the appeal rejecting the condonation of delay.

Against the said intimation u/s 143(1), the Appellant apart from preferring appeal before the CIT(Appeals), also filed petition for rectification u/s 154 of the mistake in the said intimation. In this regard, please note that the Assessing Officer has rectified the said mistake by passing order u/s 154 r.w.s. 143(3) of the Act on 29-07-2024”.

4. In view of the application, we have heard the Ld. AR on behalf of the assessee and Ld. DR on behalf of the revenue. The Ld. DR has not raised any objection to the withdrawal of this appeal.
5. We find considerable cogency in the contentions of Assessee as aforesaid. Keeping in view of the facts and circumstances of the case, we accept the request of the assessee for withdrawal of the Appeal and accordingly, we dismiss the Appeal as withdrawn.



6. In the result, appeal filed by the assessee is dismissed as withdrawn.

Order pronounced in the open court on 08.10.2024

**Sd/-
(PADMAVATHY S.)
(ACCOUNTANT MEMBER)**

**Sd/-
(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)**

Mumbai / Dated 08.10.2024
Karishma J. Pawar, (Stenographer)

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