

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

**BEFORE: SHRI BR BASKARAN, ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 1831/MUM/2024
(Assessment Year : 2020-21)**

New Vasant Apartment Co- operative Housing Society Limited Garodia Nagar, Rajawadi SO, Ghatkopar (E), 400077.	Vs.	CPC, Bangalore, Ward 27(2)(1), IT-Office, Vasi Railway Station Building, Navi Mumbai-400703.
PAN/GIR No. AABAN3708L		
(Appellant)	..	(Respondent)

Assessee by	Shri. Ashish Thakurdesai
Revenue by	Shri. Ajit Pal Singh Daia (Sr. AR)
Date of Hearing	16/07/2024
Date of Pronouncement	15/10/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 14.02.2024 passed in Appeal no. NFAC/2019-20/10154660 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.] 2020-21, wherein learned CIT(A) has dismissed assessee's appeal upon rejection of assessee's application for condonation of delay.

2. Briefly stating, appellant assessee filed its return of income for A.Y. 2020-21 on 15.09.2020 and claimed deduction u/s. 80P(2)(d) of Rs. 10,22,135/-. The intimation order u/s. 143(1) of the Act was passed, wherein CPC disallowed the claim of aforesaid deduction and assessed total income of the assessee at Rs. 10,22,140/-. Aggrieved, assessee filed an appeal before learned CIT(A), who dismissed assessee's appeal merely upon rejection of assessee's application for condonation of delay.
3. Assessee has approached this Tribunal on the ground that learned CIT(A) has erred in dismissing first appeal due to delay ignoring the fact that assessee initiated the process of rectification and assessee's CA died in the year 2017.
4. We have heard the parties and perused the material available on record.
5. Learned AR has prayed to set aside impugned order on the ground stated hereinabove.
6. Learned DR submitted that no sufficient cause was shown by the assessee before the first appellate authority for the condonation of the said delay.
7. We notice that 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. We further notice that the appellant

filed the present appeal before learned CIT(A) on 12.06.2022, whereas the date of order u/s. 143(1) was on 25.11.2021 i.e after a delay of about more than five months. The reason shown by appellant was that he initiated rectification process and the assessee was confident of getting relief, resulting in the said delay.

8. It is well established principle of law that the substantial justice cannot be denied on technical aberrations. In an adversarial 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 cause shown of resorting to rectification process before learned CIT(A) appears to us to be sufficient. We, deem it just and proper in the circumstances to condone the said delay in filing the first appeal before the first appellate authority.
9. In the result, the appeal is allowed. The impugned order dated 14.02.2024 is set aside. The delay in filing the first appeal before first appellate authority i.e 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 15.10.2024.

Sd/-
(BR BASKARAN)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 15/10/2024
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