

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

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

**ITA No. 1832/MUM/2024
(Assessment Year : 2018-19)**

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/2017-18/10154471 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 assessee's application for condonation of delay in filing the same.

2. Briefly stating the facts, the appellant assessee filed its return of income for A.Y. 2018-19 on 22.09.2018 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 on 31.05.2019 assessing assessee's total income at Rs. 7,63,762/-. Aggrieved, assessee filed first appeal on 09.06.2022. Learned CIT(A) has dismissed assessee's appeal 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 assessee's appeal on the basis of delay ignoring the fact that the adjustment made by the CPC was beyond the scope of section 143(1) of the Act.
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. It is found that appellant filed the first appeal on 09.06.2022, whereas the date of order u/s. 143(1) was on 31.05.2019 i.e after about 1080 days of impugned order. 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 recognizance 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. Learned CIT(A) has not condoned the delay of remaining about 300 days.

8. 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 assessee seems to be under an impression that he will succeed in his rectification request and get the deduction u/s. 80P(2)(d) of the Act. This seems to be sufficient cause to condone the delay. We hold that the delay has wrongly been refused to be condoned by learned CIT(A). We, accordingly 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 appellant 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//

ITA no. 1832/MUM/2024
New Vasant Apartment Co-operative
Housing Society Limited

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai