

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

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

**ITA No. 1833/MUM/2024
(Assessment Year : 2015-16)**

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/2014-15/10154462 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.] 2015-16, wherein learned CIT(A) has dismissed assessee's appeal upon rejection of assessee's application for condonation of delay.

2. Briefly stated, assessee filed his return of income for A.Y. 2015-16 on 24.05.2016 and claimed deduction u/s. 80P(2)(d) of Rs. 4,51,677/-. The intimation order u/s. 143(1) of the Act was passed on 17.10.2016 assessing assessee's total income of Rs. 4,51,677/-. Aggrieved, assessee filed first appeal on 09.06.2022 which was dismissed by learned CIT(A) 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 assessee's appeal due to delay ignoring the adjustment made by CPC outside 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 before the first appellate authority by the assessee to condone the said delay and supported the impugned order.
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 the appellant filed the first appeal on 09.06.2022, whereas the date of order u/s. 143(1) was on 17.10.2016 i.e after about 2040 days of intimation 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. After exclusion of about 705 days falling in the aforesaid duration, the delay of remaining about 1335 days has not been condoned by learned CIT(A).

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 efforts to get the deduction u/s. 80P(2)(d) of the Act, that seems to be sufficient cause to condone the delay. We accordingly deem it just and proper to condone the said delay caused in filing he 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.

ITA no. 1833/MUM/2024
New Vasant Apartment Co-operative
Housing Society Limited

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai