

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

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

**ITA No. 1714/MUM/2024
(Assessment Year : 2014-15)**

Shree Sejal Tower Co-operative Housing Society Limited Shree Sejal Tower CHS Ltd, Link Road, Goregaon West, 400104.	Vs.	CPC, Bangalore, Kautilya Bhavan, G Block, BKC, Bandra (E)-51, Mumbai-400001.
PAN/GIR No. AAIAS6448R		
(Appellant)	..	(Respondent)

Assessee by	Shri. Ashish Thakurdesai
Revenue by	Shri. Ajit Pal Singh Daia (SR.DR.)
Date of Hearing	18/07/2024
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 09.02.2024 passed in Appeal no. NFAC/2013-14/10212563 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.] 2014-15, wherein learned CIT(A) has dismissed assessee's appeal upon rejection of assessee's application for condonation of delay.

2. Brief facts state that the appellant assessee is a co-operative housing society and filed its return of income on 22.03.2016 for A.Y. 2014-15, declaring total income at Rs. Nil. The return was processed by CPC u/s. 143(1) of the Act dated 30.06.2016 and assessed total income of the assessee at Rs. 6,67,750/-. 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 the appeal merely on the ground of delay.
4. We have heard the parties and perused the material available on record.
5. Learned AR has submitted that learned CIT(A) has erred in dismissing assessee's appeal merely on delay without considering the fact that assessee was pursuing the alternative remedy of rectification. Prayed to set aside the impugned order.
6. Learned DR submitted that no sufficient cause was shown by the assessee before the first appellate authority to condone the said delay and supported the impugned order.
7. We notice that assessee e-filed first appeal on 26.01.2023 passed u/s. 143(1) of the Act 30.06.2016 after about 2350 days out of this, the period of about 705 days shall be

deducted for the duration from 15.03.2020 to 28.02.2022 in compliance of Hon'ble Apex Court's order dated 10.01.2022 due to Global pandemic COVID-19. The net delay therefore remains about 1625 days. 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. Learned CIT(A) was, however not satisfied with the cause shown by the assessee and declined to condone the said delay in filing the first appeal before him.

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. Assessee took the ground before learned CIT(A) that it was taking follow-up action of rectification against the intimation order passed u/s. 143(1) of the Act with a bonafide belief that the disallowance made u/s. 80P(2)(d) of the Act may be deleted in the rectification process. Another ground for the delay was shown as death of assessee's CA in the year 2017. In the totality of facts and circumstances of the case and in the interest of justice, it deems just and proper to condone the said delay in filing first appeal.

9. In the result, the appeal is allowed. The impugned order dated 09.02.2024 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//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai