

IN THE INCOME TAX APPELLATE TRIBUNAL “K (SMC)” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 4502/Mum/2024
(Assessment Year: 2012-13)

Shaheda Mohamed Farook Khatri C/O. PHD & Associates CAS, A-204/A, Rustomjee Central Park, Andheri Kurla Road, Chakala, Andheri(E), Mumbai-400 093	Vs.	ITO, Ward-17(3)(3) Kautilya Bhavan, Bandra Kurla Complex, Mumbai-400 051
PAN/GIR No.AMTPK 2803 L		
(Assessee)	:	(Respondent)
Assessee by	:	ShriSanjay Kalwint & Shri Bhushan Bhavnagari
Respondent by	:	Shri Tushar Mohite
Date of Hearing	:	15.10.2024
Date of Pronouncement	:	28.10.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the *ex parte* order of the learned Commissioner of Income Tax (Appeals) (‘ld.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2012-13.

2. The assessee has raised the following grounds of appeal:

- The Learned CIT (A) National Faceless Appeal Centre (NFAC) Delhi erred in not condoning the small delay of 4 working days in filing the appeal before him.*
- The learned CIT (A) erred in confirming the assessment order of the learned A.O assessing income at Rs.11,78,800.*
- The learned CIT (A) erred in not giving an opportunity to the Appellant to explain various expenses debited to the Profit and Loss account filed with him and erred thereby in not taking net income of Rs. 2,97,875 as assessed income of the Appellant.*

4. *The Appellant therefore prays that the Order under Section 250 of the Income Tax Act, 1961 is bad at law and should be quashed and the net income of Rs.2,97,875 as per the Profit and Loss account should be accepted as the Taxable Income of the Appellant.*

3. The brief facts are that the assessee is an individual engaged in the business of undertaking labour jobs of hand dyeing and printing of sarees and dress materials and other fabrics. The assessee has not filed her return of income for the year under consideration. The assessee's case was reopened vide notice u/s. 148 of the Act dated 26.03.2019 for the reason that the department had received information about the financial transaction/activity under the Individual Transaction System (ITS) maintained under the module of AST system of the Department that the assessee had receipt u/s. 194C amounting to Rs.23,57,604/-. The assessee was non compliant during the assessment proceeding and the ld. A.O. passed the assessment order u/s.144 r.w.s. 147of the Act on 16.12.2019, determining the total income at Rs.11,78,800/-, after making the impugned addition.

4. The assessee was in appeal before the first appellate authority, challenging the assessment order.

5. The ld. CIT(A) vide order dated 08.07.2024, dismissed the appeal filed by the assessee without condoning the delay of 4 days in filing the appeal before the ld. CIT(A) and upheld the addition made by the ld. A.O.

6. Aggrieved the assessee is in appeal before us, challenging the impugned order of the ld. CIT(A).

7. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has challenged the additions made by the ld. A.O.

before the first appellate authority but the Id. CIT(A) has failed to condone the delay of 4 days on the ground that the assessee has not stated the reason for the delay and, therefore, there was 'no sufficient cause' explained by the assessee.

8. The learned Authorised Representative ('Id. AR' for short) for the assessee contended that the assessee has got a good case on the merits and prayed that the assessee may be given one more opportunity to present her case before the lower authorities.

9. The learned Departmental Representative ('Id.DR' for short) vehemently opposed to setting aside the issue to the lower authorities for the reason that the assessee has been non compliant before the Id. A.O. and has also not explained the cause of the delay in filing the appeal before the first appellate authority.

10. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present her case before the Id.A.O. by adhering to the principles of natural justice. We, therefore, remand all these issues back to the file of the Id.A.O. for *de novo* assessment. The assessee is directed to comply with the proceedings without any undue delay on her side.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 28.10.2024

Sd/-

(Om Prakash Kant)
Accountant Member

Mumbai; Dated : 28.10.2024

Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)
Judicial Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai