

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI
BEFORE MS. KAVITHA RAJAGOPAL, JM AND SHRI GAGAN GOYAL, AM**

ITA No. 4645/Mum/2024
(Assessment Year: 2020-21)

Gold Coin Apartments Co-operative Housing Society Ltd. Vakola Pipe Line, Nehru Road, Santacruz (E), Mumbai-400 055	Vs.	ITO 22(1)(5) Mumbai
PAN/GIR No. AAAAG 1535 H		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Vidyadhar Khandekar
Respondent by	:	Ms. Rajni Roy
Date of Hearing	:	30.10.2024
Date of Pronouncement	:	30.10.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the 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) 2020-21.

2. The assessee has challenged the order of the ld. CIT(A) in not condoning the delay of 133 days in filing the appeal before the first appellate authority, along with other grounds of appeal.

3. Brief facts of the case are that the assessee is a housing society and had filed its return of income for the year under consideration on 10.02.2021 and the same was processed u/s. 143(1) of the Act, where the CPC/learned Assessing Officer (ld. A.O. for

short) had disallowed deduction of Rs.3,79,248/- u/s.80P(2)(d) of the Act on the interest income received by the assessee from its investments made with Co-operative Banks.

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

5. The Id. CIT(A) vide order dated 15.07.2024, dismissed the appeal filed by the assessee for the reason that the assessee had filed the appeal before the first appellate authority with a delay of 133 days for which the assessee has not explained the delay with 'sufficient cause'.

6. The assessee is in appeal before us, challenging the impugned order of the Id. 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 addition/disallowance made by the CPC/Id. A.O. before the first appellate authority but the said appeal has been filed belatedly after the period of limitation.

8. The learned Authorised Representative ('Id. AR' for short) for the assessee contended that the assessee had not received the intimation of the CPC in its mail and was completely unaware of it. Further, the Id. AR stated that the intimation of CPC came to the knowledge of the assessee society only when the tax consultant had logged in for downloading 26AS while filing the tax return for A.Y. 2022-23. The Id. AR prayed that the delay in filing the appeal before the first appellate authority be condoned for the

reason that the assessee has got a good case on the merits where the issues are covered by the decision of the co-ordinate benches.

9. The learned Departmental Representative (Id. DR for short), on the other hand, controverted the same and stated that the assessee society must have received the intimation u/s. 143(1) of the Act on the same date when it was passed by the CPC/Id. A.O. The Id. DR opposed to condoning the said delay as the reason stated by the assessee was not a 'sufficient cause' to justify the delay.

10. Having heard the rival submissions and perused the materials available on record, it is observed that the CPC/Id. A.O. had passed the intimation order dated 26.11.2021 and since the Hon'ble Apex Court had extended the limitation period to 90 days, vide Miscellaneous Application No. 21/2022 in MA No.665/2021 in SMW(C) No. 3/2022 vide order dated 10.01.2022, the limitation for filing of the appeal was extended upto 01.06.2022. The assessee had filed its appeal on 12.10.2022 with a delay of 133 days for which the Id. CIT(A) has failed to consider the reason specified by the assessee as not constituting a 'sufficient' or 'good cause' for condoning the delay. As there are various judicial pronouncements by the Hon'ble Apex Court and various High Courts where it has been reiterated that the technical defects such as delay in filing has to be construed liberally, we are of the considered opinion that the assessee may be given an opportunity to adjudicate the issue before the Id. CIT(A). We, therefore, direct the Id. CIT(A) to condone the delay in filing the appeal before the first appellate authority and to decide the issue on the merits of the case and in accordance with law.

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

Order pronounced in the open court on 30.10.2024

Sd/-
(Gagan Goyal)
Accountant Member

Mumbai; Dated :30.10.2024
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