

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES "B", BANGALORE**

**Before Shri Laxmi Prasad Sahu, Accountant Member  
&  
Shri Prakash Chand Yadav, Judicial Member**

ITA No.1832/Bang/2024: Asst.Year : 2022-2023

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| Sri.Deep Desai<br>Springleaf Apartment<br>No.6, Brunton Cross Road<br>Bangalore North<br>Bangalore – 560 025.<br><b>PAN: AAYPD4821G.</b> | vs. | The Deputy Commissioner of<br>Income-tax, Circle 7(1)(1)<br>Bangalore. |
| (Appellant)  |     | (Respondent)   |

Appellant by: Sri.Sathyanarayana, CA  
Respondent by: Sri.Chinmay Anand Jain, JCIT-DR

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| Date of Hearing : 29.10.2024 | Date of<br>Pronouncement: 05.11.2024 |
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**ORDER**

**Per Prakash Chand Yadav, JM :**

The present appeal of the assessee is arising from the order of the learned CIT(A) dated 24<sup>th</sup>April, 2024 and relates to assessment year 2022-2023, having DIN & Order No.ITBA/APL/S/250/2024-25/1066966652(1).

2. The assessee has raised six grounds of appeal. However, the solitary issue which has been canvassed before us is that the learned CIT(A) has erred in not condoning delay of 50 days while adjudicating the appeal of the present assessee.

3. Facts giving rise to the present appeal are like that the assessee is a resident and legal heir of Ms.Ila K Desai. The assessee, Ms.Ila K Desai has passed away on 17<sup>th</sup> August, 2021 and the present

assessee inherited her assets and liability. The assessee has filed his return of income electronically on 30<sup>th</sup> July, 2022 declaring an income of Rs.50,18,660, which income was including substantial amount of interest income and capital gain arising from the fixed deposits and mutual funds, being inherited by assessee from the deceased. The assessee claimed the adjustment of TDS in relation to the income offered by him for tax. However, the CPC Bangalore could not allow the adjustment because the TDS was deducted by the payee in the name of his mother, and hence, a demand of Rs.34,60,060 has been raised against the assessee. Upon receipt of the intimation, the assessee filed a rectification application before the concerned authority. However, the same was rejected.

4. Thereafter the assessee filed an appeal before the CIT(A) with an application for condonation of delay of 50 days. The ld.CIT(A) could not find any force in the arguments of the assessee, vis-à-vis, the condonation of delay application, and hence, dismissed the appeal of the assessee in *limine*, without condoning the delay.

5. Now the assessee has come up in appeal before us. Today, when the matter was listed for hearing, the learned Counsel for the assessee filed an application for adjournment. However, when we perused the order of the ld.CIT(A) and perused the reasons for the delay before the ld.CIT(A), we rejected the application of adjournment and heard the matter on this preliminary issue only.

5. The learned Departmental Representative could not seriously object to the prayer of the assessee.

6. After considering the rival submissions and perusing the material available on record, we are of the view that it is settled position of law that where technical consideration and substantial justice pitted against each other then cause of substantial justice should be given credence as held by Hon'ble Apex Court in the case of Collector, Land Acquisition Vs. MST.Katiji & Ors., (167 ITR 471) (SC). Therefore in our view one more opportunity to the assessee shall be granted in the interest of justice. Accordingly, we restore the matter to the file of the Id.CIT(A) for deciding afresh. We also condone the delay of 50 days happened before the CIT(A) and direct the CIT(A) to decide the appeal on merits in accordance with law. We also direct the assessee to cooperate with the department in remand proceedings, in case there is a failure on the part of assessee then no leniency would be granted to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 05<sup>th</sup> November, 2024.**

**Sd/-**  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

**Sd/-**  
**(Prakash Chand Yadav)**  
**Judicial Member**

Bangalore; Dated: 05<sup>th</sup>November, 2024  
Devadas G\*

Copy to:

1. The Appellant.
2. The Respondent.
3. The CIT(A) Concerned.
4. The DCIT concerned.
5. The Sr. DR, ITAT, Bangalore.
6. Guard File.

Asst.Registrar  
ITAT, Bangalore