

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

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

**ITA No. 3548/MUM/2024
(Assessment Year : 2019-20)**

| | | |
|--|-----|--|
| Dinesh Engineers Limited DEPL House Neighbourhood Shopping Complex, Nerul Sector-4, Navi Mumbai- 400706. | Vs. | DCIT Circle 15(1)(2), Aayakar Bhawan, Maharishi Karve Road, New Marine Lines, Mumbai-400020. |
| PAN/GIR No. AACCD3117C | | |
| (Appellant) | .. | (Respondent) |

| | |
|------------------------------|-----------------------------|
| Assessee by | Shri. Rohan Sogani |
| Revenue by | Shri. R. R. Makwana, Sr. DR |
| Date of Hearing | 29/10/2024 |
| Date of Pronouncement | 06/11/2024 |
| | |

आदेश / ORDER

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 14.05.2024 passed in Appeal no. NFAC/2018-19/10214752 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.] 2019-20, wherein learned CIT(A) has dismissed assessee's appeal upon rejection of delay condonation application.

2. The brief facts that give rise to the appeal state that appellant assessee filed its return of income for A.Y. 2019-20, declaring total income of Rs. 1,03,49,63,700/-. The ROI was processed u/s. 143(1) of the Act on 13.06.2020 by CPC Bangalore, wherein various disallowances and additions amounting to Rs. 69,98,423/- were made. The assessee, after having failed in filing its rectification u/s. 154 of the Act on 12.12.2022, filed first appeal on 31.12.2020 along with delay condonation application, however learned CIT(A) was not satisfied by the assessee's explanation and dismissed assessee's first appeal upon rejection of delay condonation application.
3. Aggrieved by the impugned order, assessee filed this appeal on the ground that learned CIT(A) has erred in dismissing assessee's appeal merely on the ground of dismissal of assessee's delay condonation application.
4. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.
5. We have perused the records and heard learned representatives for both the parties.
6. Learned AR has submitted that the period from 15.03.2020 to 28.02.2022 was condoned by the order dated 10.01.2022 passed by Hon'ble Supreme Court in Misc app. No. 21/2022 r/w suo moto w p No. 03/2020 after taking cognizance of outbreak of covid-19. The appellant was thus entitled to file

appeal within 90 days for 01.03.2022 but failed to do so. The appellant was under a bonafide belief that adjustment made u/s. 143(1) would be rectified u/s. 154 of the Act. Since the appellant failed to file rectification, due to technical glitches, it immediately took steps to file appeal and could file it only on 31.12.2020 by a delay of about 07 months. The delay is based on assessee's bonafide intentions. Learned AR has prayed to condone the said delay caused in filing first appeal and to set aside the impugned order and direct learned CIT(A) to pass the order on merit afresh.

7. Learned DR has supported the impugned order.
8. It appears to us that assessee filed first appeal before learned CIT(A) on 31.12.2020 against the intimation order dated 13.06.2020 passed u/s. 143(1) of the Act. The substantial portion of delay from 13.06.2020 till 28.02.2022 gets condoned under the aforesaid Hon'ble Apex Court's order. For the remaining period of delay, the assessee's ground that it was under a bonafide belief that the adjustment made u/s. 143(1) would be rectified u/s. 154 of the Act, cannot be ignored. It is natural phenomenon that if a litigant can get relief from minimum efforts, it will try to avoid to resort to the larger expensive mode of adjudication. It appears that most of the period was occupied by the out break of global pandemic covid-19 disease. In the totality of facts and circumstances and in the interest of justice, we deem it just and proper to condone the delay caused in filing the appeal before the first appellate authority. The delay is accordingly condoned.

9. In the result, the appeal is allowed in above terms for statistical purposes. The impugned order dated 14.05.2024 is set aside. The appeal is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 06.11.2024.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 06/11/2024
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