

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

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

**ITA No. 2300/MUM/2024
(Assessment Year : 2018-19)**

Manisha Hemant More 1 st Floor, 203, Ravi Raj Apartment, Khadakpada Circle, Near Wayale Nagar, Kalyan West, Thane-421301.	Vs.	ACIT Central circle-3, Ashar IT park, Thane-400604.
PAN/GIR No. AHKPM8129P		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri. R. R. Makwana, Sr. DR
Date of Hearing	29/10/2024
Date of Pronouncement	08/11/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 13.06.2024 passed in Appeal no. ADDL/JCIT (A)-4 DELHI/10001/2014-15 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.] 2015-16, wherein learned CIT(A) has dismissed assessee's appeal upon rejection of assessee's application for condonation of delay in filing the same.

2. The brief facts state that the assessee, filed its original return of income on 23.11.2018 declaring total income at Rs. 27,48,640/-. The case was selected for scrutiny and assessment order u/s. 144 r.w.s 143(3) of the Act dated 09.02.2021 was passed, assessing total income of the assessee at Rs. 70,91,821/-. Aggrieved, assessee filed an appeal before learned CIT(A), who dismissed assessee's appeal upon rejection of delay condonation prayer.
3. Appellant has field this appeal on the ground that learned CIT(A) has erred in dismissing the appeal merely upon rejecting delay condonation application on the technicalities.
4. None responded for the assessee. Heard learned DR and perused the records.
5. Learned DR has submitted that no sufficient cause was shown to the first appellate authority to condone the said delay of about 71 days after excluding the COVID period as directed by Apex Court. Learned DR has supported the impugned order.
6. We notice that the appeal before learned CIT(A) was filed on 09.06.2022 against the assessment order dated 09.06.2021 after 455 days. Learned CIT(A) adjusted COVID period duration from 15.03.2020 to 28.02.2022 in compliance of Hon'ble Apex Court's order dated 10.01.2022. Learned CIT(A),

has, however, not condoned the remaining period of about 71 days as not based on any sufficient cause.

7. 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. The assessee's cause shown in the impugned order is that the assessee, a dentist faced a lot of financial difficulties to meet daily costs to survive due to post COVID effect. In such circumstances, we hold that the delay has wrongly been refused to be condoned by learned CIT(A). We, accordingly condone the said delay in filing the first appeal before the first appellate authority.
8. In the result, the appeal is allowed. The impugned order dated 20.02.2024 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 in open court on 08.11.2024.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 08/11/2024
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