

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI
BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No.1620/Del/2024
(ASSESSMENT YEAR-2017-18)

Maalddin House No.268, Tapkan (96), Tapkan, Mewat-122107 Haryana-122107 PAN:BPBPM8995K (Appellant)	Vs.	ITO WARD 2(4), GURGAON (Respondent)
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Assessee by	Shri I.P. Bansal, Adv. Shri Vivek Bansal, Adv. and Sh. Vishal Chechi, Adv.
Respondent by	Shri Amit Shukla, Sr.DR

Date of Hearing	23/10/2024
Date of Pronouncement	23/10/2024

ORDER

PER VIMAL KUMAR, JM:

The application for Condonation of delay of 182 days in filing appeal and the appeal of the Assessee are against order dated 24/07/2023 of the National Faceless Appeal Centre (NFAC), Gurgaon, passed by Learned Commissioner of Income Tax(Appeals) [hereinafter referred to as 'Ld. CIT(A)'] arising out of Assessment Order dated 25.12.2019 of the Assessing Officer(hereinafter referred as Ld. A.O.) for Assessment Year 2017-18.

2. The appellant has submitted that he has suffering from heart trouble and was in hospital for undergoing angioplasty. Copies of treatment record have been filed. Explanation for Condonation of delay in filing appeal does not smack of *malafides* as nothing has been gained by the appellant/assessee. Therefore, the application for Condonation of delay in delay of 182 days in filing appeal is condoned.

3. Brief facts of case are that appellant/assessee filed return of income of Rs.4,85,130/- for Assessment Year 2017-18 on 04/01/2018. The case was selected for limited scrutiny under CASS. Notice u/s 143(2) was issued on 10/08/2018 by the ITO, Ward-1(1), Gurugram. The case was transferred from ITO, Ward-1, Gurugram, to ITO Ward No.2(4), Gurugram. Notice u/s 142(1) of the Act were issued to assessee and 21/02/2019 or 26/08/2019 but no response was received. Ld. AO completed penalty proceeding vide order dated 25.12.2019.

4. The appellant/assessee preferred application for Condonation of delay of 33 days in filing appeal and appeal before Ld. CIT(A). Ld(CIT(A) allowed application for Condonation of delay of 33 days in filing appeal and dismissed the appeal vide order dated 24.07.2023.

5. Learned Authorized Representative for appellant/assessee submitted that there is delay of 182 days in filing appeal due to illness. Because of illness the appellant could not appear before

the Ld. CIT(A). Learned CIT(A) erred in dismissing the appeal *ex-parte*. So, the matter may be restored to file of Learned CIT(A) for fresh decision.

6. Learned Departmental Representative for Revenue submitted that appellant despite notices did not appear before Ld. CIT(A).

7. From examination of record in light of aforesaid rival contentions it is crystal clear that appellant due to illness failed to appear in assessment proceedings and appellate proceedings before Ld AO and Ld.CIT(A). In view of above material facts in interest of justice, it is expedient to restore the matter to the file of Ld. AO for fresh decision in accordance with Law.

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

Order pronounced on 23rd October, 2024.

sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

sd/-

(VIMAL KUMAR)
JUDICIAL MEMBER

Dated:23/10/2024

DP/sps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT