

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G", NEW DELHI
BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,
AND
SHRI YOGESH KUMAR US, JUDICIAL MEMBER

	ITA NO. 1518/Del/2024	
	A.YR. : 2020-21	
SHAILESH KUMAR SINGH, B-05, NEAR ATS KOCOON, SHOBHA INTERNATIONAL CITY, SECTOR-109, BAJGHERA GURGAON, HARYANA-122017 (PAN/TAN: DELS73570A)	VS.	INCOME TAX OFFICER, WARD-81(2), TDS CPC, Aayakar Bhawan, Sector-3, Vaishali, Ghaziabad – 201 010
(APPELLANT)		(RESPONDENT)

Appellant by : Shri Vikram Gera, CA
Respondent by : Ms. Shashi Kajle, Sr. DR.

Date of hearing : 30.10.2024
Date of pronouncement : 05.11.2024

ORDER

PER SHAMIM YAHYA, AM :

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 08.2.2024, relating to assessment year 2020-21 on the following grounds:-

1. On the facts and circumstances of the case, the Ld. CIT(Appeal) has grossly erred in rejecting the appeal of the assessee on the ground that it was filed beyond the limitation and without appreciating the fact that the order of the Ld. AO was grossly erroneous and while COVID period, the delay was inevitable.

2. In reference to the above, appellant would like to explain that since COVID-19 was on peak and unable to reach to any office, appellant could not able to take any appropriate actions. However, the appellant wrote an email to TDS Jurisdictional Assessing Officer and requesting him to investigate the matter and to remove the demand erroneously created against his TAN. However, CIT has not even considered any of the facts mentioned and passed the order under section 250 of the Income Tax Act, 1961 which is bad in law.

3. On the facts and circumstances of the case, the demand of Rs. 36,83,290/- has been inadvertently mapped to the appellant when in fact the transaction resulting in such an enormous demand does not hold any account to the appellant. Therefore, the Income Tax Department has erred by fallaciously mapping the said demand to the appellant and hence it stands baseless and must be revoked.

4. On the facts and circumstances of the case, the Income Tax Department has inadvertently issued TAN of the appellant to another individual with similar name Mr. Shailesh Kumar Singh (Head Master) and fallaciously mapped his transaction with appellant's TAN thereby resulting in an extraneous demand.

5. On the facts and circumstances of the case, the Income Tax Department has misdirected itself in natural justice in levying a falsely mapped demand and thus is prima facie devoid of merits and contrary to law and needs to be quashed and prayed for accordingly. The appellant prayed to the office of Commissioner of Income Tax (CIT) to nullify, revoke and delete the aforementioned false demand.

6. The appellant prays to the office of ITAT to exercise the powers conferred to the Hon'ble ITAT under section 254 of the Income Tax Act, 1961 to nullify revoke and delete the aforementioned false demand.

7. The appellant craves leave to add, amend, delete any grounds of appeal before the hearing is scheduled.

2. In this case, the AO TDS-CPC imposed the sum of Rs.36,83,388/- on account of short deduction and interest on short deduction vide intimation dated 27.07.2020 u/s 200A for Q4 of Form 27Q.

3. Against the aforesaid action of the AO, assessee preferred an appeal before the Ld. CIT(A), who vide his impugned order dated 08.2.2024 noted that there is a delay of 533 days in filing the appeal before him, for which the assessee filed the application for condonation of delay, which read as under:-

“Due to an oversight of the Income Tax Department while allotting TAN appellants TAN and PAN is now reflecting a fallacious mapping of demand which is exorbitantly high Several Communications were made with the Income Tax Authorities by the appellant quoting Someone else has falsely fled form 27Q for the above period quoting the TAN of the deductor under consideration and due to mismatch of TAN and challan, the statement is processed with defaults reflecting a high pitch demand of Rs 3683390 and requesting for an immediate direction for not to treat the Assessee in Default Because of spread of COVID 19 the appellate preferred to communicate with the Income Tax Authorities through emails A summary of previous communications are as follows Centralized Processing Centre on 12Aug2020 Delhi ITO 71 2 on 20Aug2020 Delhi Additional C/7 77 05 Feb2021 Office Follow up 31Mar2021 A letter from Income Tax Office TDS Ward77 2 Aaykar Bhawan was received on 17Aug2021 elucidating that appellants TAN was inadvertently issued to Mr Shailesh Kumar Singh Head Master Now he has been issued a new TAN DELS89624D It further requests to provide a No Objection Certificate NOC by 24Aug2021 in case Challan No 00913 and 01107 dated 24Feb2020 do not belong to the appellant In response to the above a submission is made on 24Aug2021 with fine print explanation of how aggrieved the appellant is without any fault of his and requesting to take facts and circumstances in their cognizance thereby removing the fallacious mapping of demand which will enable the appellant to issue NOC at the earliest Submission has reference of Intimation vide supra and the mail communication vide supra As the power to remove a fallacious mapping of a demand is excluded from the powers conferred on the assessing officer or income tax authorities under section 131 of the Income Tax Act 1961 it is therefore in respect of the aforesaid inadvertent demand that the appellant is fling an appeal before the office of your good self Moreover the glitches on IT portal has also impacted the Appellant in fling of the Appeal before your good self as the Challan paid for the Appeal fee was not getting mapped on the IT portal. We request you to kindly take the above facts into

consideration condone the delay and allow the appellant to file appeal under section 246A of income tax act 1961.”

3.1 After considering the aforesaid contents of the condonation delay application, the Ld. CIT(A) was not convinced and he did not condone the delay in dispute and accordingly, dismiss the appeal on this count.

4. Aggrieved with the above action of the Ld. CIT(A), assessee is in appeal before us.

5. We have heard both the parties and perused the records. We find considerable cogency in the contention of the assessee made in the contents of the aforesaid application for condonation delay that due to an oversight of the Income Tax Department while allotting TAN appellants TAN and PAN is now reflecting a fallacious mapping of demand which is exorbitantly high. We further note that several Communications were made with the Income Tax Authorities by the assessee quoting someone else has falsely filed form 27Q for the above period quoting the TAN of the deductor under consideration and due to mismatch of TAN and challan, the statement is processed with defaults reflecting a high pitch demand of Rs 3683390 and requesting for an immediate direction for not to treat the Assessee in Default because of spread of COVID 19 the assessee preferred to communicate with the Income Tax Authorities through emails. It is also noted that Income Tax Department has inadvertently issued TAN of the assessee to another individual with similar name Mr. Shailesh Kumar Singh (head Master) and fallaciously mapped his transaction with assessee's TAN thereby resulting in an extraneous demand. In view of above, we of the considered view that reasonable cause is attributed in not filing the appeal on time, which deserve to be condoned. Accordingly, we condone the same. We further find that Ld. CIT(A) in his impugned order has not at all discussed the merit of the case and passed a non-speaking order, which is not sustainable in the eyes of law.

5.1 In the background of the aforesaid factual matrix and in the interest of justice, we are of the considered view that in the interest of justice, the issues in dispute are remitted back to the file of the Ld. CIT(A) with the directions to adjudicate the same afresh, after giving adequate opportunity of being heard to the assessee and pass a speaking order on merits.

6. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 05/11/2024.

SD/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

SD/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRB

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar