

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2025/PUN/2024

निर्धारण वर्ष / Assessment Year : 2019-20

Searce Logistics Analytics LLP, IT 06, Blue Ridge, Rajiv Gandhi IT Park, Phase-1, Hinjewadi, Pune 411027 Maharashtra PAN : ABWFS3166N	Vs.	ACIT, Circle-2, Pune
Appellant		Respondent

Assessee by	:	Shri Kishor B. Phadke
Revenue by	:	Shri Ajay Kumar Keshari
Date of hearing	:	13.11.2024
Date of pronouncement	:	14.11.2024

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2019-20 is directed against the order passed u/s.250 of the Income Tax Act, 1961 [in short "the Act"] by the Id.National Faceless Appeal Centre, Delhi [in short "Id.NFAC"] dated 30.07.2024 arising out of the Rectification order passed u/s.154 of the Act, dated 11.05.2021.

2. Assessee has raised following grounds of appeal :

"1. The learned CIT(A)-NFAC erred in law and on facts in assessing total income of appellant at Rs.26,21,83,620/- instead of returned income of Rs.13,10,12,040/- by making disallowance of deduction u/s.10AA Rs.13,03,57,840/- and Income from dividend of Rs.8,13,745/-.

2. The Learned CIT(A)-NFAC erred in law and on facts in not condoning the delay of about 615 days in filing the appeal, without appreciating the fact that the delay was on account of following reasons:]

Delay from 09/06/2021 to 28/02/2022 (i.e. 264 days) was due to the outbreak of the COVID-19 pandemic and as such Hon'ble Apex Court excluded the period from 15th March 2020 to 28th February 2022 while computing the period of limitation for filing of any suit, appeal, application, or proceeding Further delay i.e. post covid was due to internal restructuring of the organisation.

3. The learned CIT(A)-NFAC erred in law and on facts in passing an appellate order without considering the detailed submission dated 28-05-2024 and not concluding the present case on merits thus violating the principle of natural justice.

4. The learned IT Authorities erred and in law and in facts in making disallowance of Rs.13,03,57,840/- u/s.10AA without appreciating that Form 56F has been filed on 11-11-2020 and as such all the compliances were ensured by the appellant trust and therefore eligible for exemption u/s.10AA of the ITA, 1961.

5. Appellant contends that non filing/delay in filing Form No.56F is merely a technical default and is curable as held by various Courts.

6. The learned IT Authorities erred in law and in facts by making addition on account of income from dividend amounting to Rs.8,13,745/- without appreciating that dividend received is exempt u/s 10(34) of ITA, 1961.

3. Brief facts are that the assessee filed the return of income for the assessment year under consideration disclosing total income of Rs.13,10,12,040/-. Return was processed u/s.143(1) on 17.06.2020 assessing total income of the assessee at Rs.26,21,83,620/-. Thereafter, assessee made rectification application on 05.04.2021 for allowing deduction u/s.10AA at Rs.13,03,57,840/- as well as allowing the dividend income of Rs.8,13,745/- u/s.10(34) of the Act. The impugned rectification order dated 11.05.2021 came to be passed rejecting the same.

4. Aggrieved assessee filed an appeal before ld. CIT(A)/NFAC with delay who vide impugned order dismissed the appeal without condoning the delay.

5. Now the assessee has approached the Tribunal assailing the impugned order.

6. At the outset, ld. Counsel for the assessee submitted that delay occurred was on account of Covid-19 pandemic outbreak across the country and the period of 264 days is covered by the judgment of Hon'ble Supreme Court in Cognizance for Extension of Limitation, dated 08.03.2021 which was extended till 31.05.2022. The remaining delay was on account of internal restructuring. It was also submitted that assessee made a detailed submissions before the ld. CIT(A)/NFAC on 28.05.2024 which was not considered. The assessee was not given proper opportunity to explain its case. Therefore, in the interest of justice, the ld. Counsel for the assessee prayed for restoring the matter to the file of ld.CIT(A) condoning the delay.

7. On the other hand, ld. Departmental Representative vehemently opposed the arguments advanced by the ld.Counsel for the assessee.

8. We have heard the rival contentions and perused the record placed before us. Admittedly, in the present case, there was delay in filing the appeal before ld.CIT(A)/NFAC. Since the delay period includes Covid-19 pandemic outbreak, the ld. CIT(A)/NFAC ought to have considered the same by virtue of judgment of the Hon'ble Supreme Court in

Cognizance for Extension of Limitation, In re 438 ITR 296 (SC) read with judgment in Cognizance for Extension of Limitation, In re 432 ITR 206 (SC) dated 08-03-2021 and 421 ITR 314. Further, it appears that the ld.CIT(A)/NFAC has not disposed of the submission made by the assessee on 28.05.2024. The ld. DR has not brought out anything contrary to disbelieve the averments made by the assessee. In this regard, we would like to quote the decision of Hon'ble Jurisdictional High Court in the case of *Vijay Vishin Meghani vs. DCIT, 389 ITR 250 (Bom.)* wherein it was held that in the matter of condonation of delay an overall view in the larger interest of justice has to be taken. None should be deprived of an adjudication on merits unless the Court of law or the Tribunal/Appellate Authority finds that the litigant has deliberately and intentionally delayed filing of the appeal, that he is careless, negligent and his conduct is lacking in bonafides. We therefore direct the CIT(A)/NFAC to condone the delay.

9. In the light of above and the interest of justice, we deem it appropriate to remit the matter to the file of CIT(A)/NFAC for adjudication of the issue afresh on merits by considering the submissions made by the assessee and pass a speaking order after giving due opportunity of hearing to the assessee. Grounds of appeal raised by the assessee are allowed for statistical purposes.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on this 14th day of November, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 14th November, 2024.
Satisfy

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.