

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER**

**SMC MATTER**

**ITA no.405/Nag./2024**  
**(Assessment Year : 2013-14)**

Cine Corporation of India  
187, Museum Road, Civil Lines  
Nagpur 440 001 PAN – AA AFC8978P

..... Appellant

v/s

Income Tax Officer  
Ward-2(1), Nagpur

..... Respondent

Assessee by : Shri Shikha Loya  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 07/11/2024

Date of Order – 18/11/2024

**ORDER**

The present appeal has been filed by the assessee challenging the impugned order dated 28/06/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2013-14.

2. In its appeal, the assessee has raised following grounds:-

*“(1) That the learned CIT(A) erred, in law and on facts in dismissing the appeal in-limine by rejecting the reasons provided for condonation of delay in filing of appeal memo, holding that the appellant has not furnished sufficient cause for condonation. On facts and circumstances of the case, the action of the learned CIT(A) is highly unjustified and against the principles of natural justice.*

*(2) That the assessment order passed by AO, Assessment Unit, NFAC passed u/s. 147 r.w.s.144B is bad in law and wrong on facts and the learned CIT(A) erred in confirming the same.*

*(3) That the notice issued u/s. 148 and proceedings thereafter u/s. 147 are bad in law and wrong on facts and the learned CIT(A) erred in not quashing the same.*

*(4) That the learned CIT(A) erred in confirming the action of AO in assessing income of Rs. 15,70,377/ as Business Income and Rs. 17,500/- as income from Other Sources. On facts and circumstances of the case, the assessee was not in existence during the year under consideration and action of the authorities being based on conjectures and surmises is liable to be quashed.*

*(5) That the learned CIT(A) erred in law and on facts in confirming the action of AO in determining and charging interest u/s. 234A and 234B. On the facts and circumstances of the case and in law, the calculation is improper.*

*(6) That for any other ground with kind permission of your honour at the time of hearing of appeal."*

3. When this appeal is taken up for hearing, the learned Counsel, appearing for the assessee submitted that the learned CIT(A) has dismissed the appeal of the assessee without condoning the delay. No order has been passed on merits. He accordingly prayed that the appeal be restored to the file of the learned CIT(A) with direction to condone the delay and pass order on merit.

4. The learned Departmental Representative strongly supported the order passed by the first appellate authority.

5. The learned A.R. submitted that an appeal was filed before the learned CIT(A) against the Assessment order under section 147 r/w section 144B of the Act with a delay of seven days. An application for condonation of delay in filing appeal was furnished before learned CIT(A) along with appeal memo explaining that though the date of order was 22/03/2022, however, the same was effectively communicated to the assessee on 10/08/2022. We find that the reasons for delay in effective service of assessment order to the assessee

was also explained to the learned CIT(A) which forms part of the appellate records. On a perusal of the order passed by the learned CIT(A), we find that such explanation, as to how the order dated 22/03/2022, passed under section 147 r/w section 144B of the Act has been received by assessee on 10/08/2022, which has not been considered by learned CIT(A) justifiably. On a perusal of the reasons provided for delay in filing of appeal before the learned CIT(A), as mentioned in the condonation application, we find that the assessee intimated that the counsel for the assessee, viz. Chartered Accountant, Shri Hasbnis, was providing the services for income tax proceeding and was aged 93 years at the time of his demise due to COVID on 17/10/2021. Thereafter, his assistant, who was a Part Time Accountant, assisting the assessee for tax related matters also left the job. It is pertinent to mention that the communications were received by the Part Time Accountant since his e-mail i.d. was provided in the profile and he failed to communicate the same to assessee. This is a part of ITBA Portal and was not found false. In such circumstances. it was explained that the assessee did not receive any communication from the Department and came to know only when the notice under section 271(1)(c) of the Act was served on 10/08/2022. It is also brought on record by the assessee that the new Counsel changed the email i.d. while filing return of income on 10/09/2022. However, the communications were sent on the earlier mobile of the accountant, whose services were discontinued. Thus, we find that the assessee sufficiently explained the circumstances under which the order was received on 10/08/2022. Thereafter, the appeal was filed on 16/09/2022, with a delay of seven days. Considering the facts of the case, it is found that a valid case of sufficient cause for condonation has been made by the

assessee. Therefore, in view of above, the impugned order passed by the learned CIT(A) is hereby set aside and restore the matter to the file of the learned CIT(A) directing him to condone the delay in filing of appeal and adjudicate the matter denovo on the merits after providing reasonable opportunity of being heard to the assessee. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

6. Now, coming to the merit of the case, in this regard, we have heard the rival arguments, perused the material available on record and gone through the orders of the authorities below. We find that the impugned order passed by the learned CIT(A) without condoning the delay and dismissed the appeal filed by the assessee. Under these facts and circumstances of the case, we direct the assessee to file Affidavit before the learned CIT(A) to condone the delay and the learned CIT(A) is directed to accept the same sympathetically and pass order in accordance with law after providing reasonable opportunity of being heard to the assessee. The assessee is also directed to avoid seeking unnecessary adjournment, except in exception case and comply with the notices to be issued by the learned CIT(A). Consequently, all the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 18/11/2024

**NAGPUR, DATED: 18/11/2024**

**Sd/-  
V. DURGA RAO  
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur