

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**Before: Ms. Annapurna Gupta, Accountant Member
And Shri TR Senthil Kumar, Judicial Member**

**ITA No. 1732/Ahd/2024
Assessment Year 2020-21**

Altab Husen Ismail Vahora Gulshah Colony, Godi Road, Dahod-389151 Gujarat PAN: ABDPV1992J (Appellant)	Vs	The ITO, Ward-1 Dahod (Respondent)
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**Assessee by: Dr. Kumar R. Pandya, A.R.
Revenue by: Shri Ketan Gajjar, Sr. D.R.**

Date of hearing : 11-11-2024
Date of pronouncement : 19-11-2024

आदेश/ORDER

PER : TR SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the assessee as against the appellate order dated 04-09-2024 passed by Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi arising out of the assessment order passed u/s. 143(3) of the

Income Tax Act, 1961 (hereinafter referred to as the 'Act') relating to the assessment year 2020-21.

2. The ld. CIT(A) refused to condone the delay of 32 days in filing the above appeal, on the ground that no reasonable cause was made out by the assessee.

3. Brief facts of the case, the assessee is an individual who was working in BSNL and retired under Voluntary Retirement Scheme. For the assessment year 2020-21 the assessee filed his original return of income disclosing total income of Rs. 18,94,550/- and then filed a Revised Return u/s. 139(5) on 11-01-2021 disclosing total income of Rs. 7,09,380/-. The assessee's case was selected for scrutiny assessment and made an addition of Rs. 11,85,171/- as excess claim of exemption u/s. 10(10C) of the Act and demanded tax of Rs. 3,62,901/- by issuing a demand notice u/s. 156 of the Act dated 19-09-2022. The assessee paid the above tax demand on 22-09-2022. Thereafter, the assessee was issued with penalty notice u/s. 274 r.w.s. 270A on the ground of under reported income. The assessee was of the mistaken impression that having paid the disputed taxes, no further proceedings is required. Because of repeated penalty notices, the assessee verified with various Tax Consultants and he was advised to file an appeal against the assessment order, thereby there was

a delay of 32 days in filing the above appeal. The above sequences were explained in detail by the assessee by filing a Paper Book before the Ld. CIT(A). However, the same was not considered by the Ld. CIT(A) and held that the delay in filing the appeal was not properly explained and dismissed the appeal without adjudicating on merits of the case.

4. We have gone through the submissions of the assessee. We found that the assessee has given a very reasonable cause for the delay in filing the above appeal with a delay of 32 days. Further, it is also noticed that the assessee has promptly paid the impugned tax demand within three days of service of demand notice. The assessee being a salaried person had no occasion to come across litigation process in income tax proceedings. Thus, we hereby condone the delay of 32 days in filing appeal before CIT(A). However, on merits of the case whether the retrenchment compensation of Rs. 16,85,171/- received by the assessee is exempt u/s. 10(10C) of the Act or not, the ld. CIT(A) has not adjudicated the issue. Therefore, we hereby set aside the matter back to the file of Ld. CIT(A) to decide the case on merits by giving proper opportunity of hearing to the assessee. Needless to state that the assessee can produce all relevant materials/evidences before the Ld. CIT(A) to pass order on merits of the case.

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

Order pronounced in the open court on 19-11-2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad : Dated 19/11/2024

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद