

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 1936/Bang/2024
Assessment Year: 2018-19

Ramakrishnaiah Gowramma, No.165, 4 <sup>th</sup> Main Road, Kuvempunagar, Tumkur – 572 103.  <b>PAN – BOWPG 8876 B</b>	Vs.	The Income Tax Officer, Warad – 1, Tumkur.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Suman Lunkar, CA
Revenue by	:	Shri V Parithivel, JCIT (DR)

Date of hearing	:	18.11.2024
Date of Pronouncement	:	25.11.2024

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi dated 30/01/2024 in ITA No. ITBA/NFAC/S/250/2023-24/1060275662(1) for the assessment year 2018-19.

2. At the outset, it was seen that there was a delay in filing the appeal by the assessee for 187 days. The assessee has filed the condonation petition supported by the Affidavit stating that she has given the email. ID of her son and she could not receive the order passed by the Id. CIT(A). As per the assessee, she came to know about the order passed by the Id. CIT(A) upon receiving the call from the

Income-tax Department for the recovery of the outstanding demand. Immediately, thereafter the assessee with the help of Tax Consultant downloaded the order from the Income tax portal and preferred an appeal before the ITO. However, in this process a delay of 187 days has occurred.

3. The Id. AR at the time of hearing further submitted that the assessee during the relevant time was a Senior Citizen, not tech savvy and a home maker. Accordingly, the Id. AR prayed before us to condone the delay in filing the appeal by the assessee.

4. On the other hand, the Id. DR contended that the assessee is negligent in perusing the income tax matters. As such, the assessee has not filed any return in response to the notice issued u/s 148 of the Act, neither appeared during the assessment proceedings nor appellate proceedings, therefore, as per the Id. DR, the assessee being negligent should not be given the benefit of condoning the delay in filing the appeal. The Id. AR in her rejoinder reiterated that the assessee being a senior citizen and non-tech savvy, a sympathetic view should be adopted. The Id. AR before us also took the responsibility for making necessary compliances during the proceedings before the authorities below if the delay is condoned.

5. We have heard the rival contentions of both the parties and perused the materials available on record. Considering the aspect of senior citizen, we are inclined to take a sympathetic view. Accordingly in the interest of justice and fair play, we condone the delay in filing the appeal before us and proceed to adjudicate the matter on merit.

6. On merit of the matter, at the threshold, we note that the assessee has neither appeared before the AO nor before Id. CIT(A). It is also seen that the Id. CIT(A) did not admit the appeal of the assessee by holding that the assessee was under the obligation to make the payment of advance tax before filing the appeal as per the provisions of sec. 249(iv)(b) of the Act. With respect to the finding of the Id. CIT(A), we note that the assessee being a senior citizen and having no business income gets immunity from the payment of advance tax as provided u/s 207 of the Act. Accordingly, we are of the view that the Id. CIT(A) should not have dismissed the appeal of the assessee as non maintainable in terms of the violation of the provisions of sec. 249(iv)(b) of the Act.

7. Nevertheless, the assessee failed to appear before the authorities below to represent her case. Therefore, in the interest of justice and fair play, we are inclined to extend one more opportunity to the assessee to represent her case. It is directed to the assessee not to seek any adjournment and makes all necessary compliances. It is also pertinent to note that the Id. AR at the time of hearing before us has also undertaken the responsibility for necessary compliances before the AO. Accordingly, in the interest of justice and fair play, we set aside the issue to the file of the AO for fresh adjudication as per the provisions of law. Hence ground of appeal of the assessee is hereby partly allowed for statistical purposes.

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

Order pronounced in court on 25<sup>th</sup> day of November, 2024

Sd/-

**(KESHAV DUBEY)**

Judicial Member

Bangalore

Dated, 25<sup>th</sup> November, 2024

/ vms /

Sd/-

**(WASEEM AHMED)**

Accountant Member

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore