

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
& SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER**

I.T.A. No.1406/Ahd/2024
(Assessment Year: 2016-17)

Javith Anver Basha, No. 68/2, C Cross, 6 th Main, Bismillah Nagar, Bannerghatta Main Road, Bangalore-560029	Vs.	Assistant Commissioner of Income Tax, Circle International Taxation, Vadodara
[PAN No. BJFPB6632Q]		
(Appellant)	..	(Respondent)

Appellant by :	Shri B. Chhataraj, A.R.
Respondent by:	Shri Prithviraj Meena, CIT DR

Date of Hearing	27.11.2024
Date of Pronouncement	28.11.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Assistant Commissioner of Income Tax Circle, International Taxation, Vadodara, vide order dated 28.05.2024 passed for A.Y. 2016-17.

2. The Assessee has taken the following grounds of appeal:-

“1. The Ld. DRP 2, WZ Mumbai, erred in facts holding that the assessee filed the objections on 12.-04-2024 which was beyond the statutory limit of 30 days u/s 144C(2).

2. The Ld. DRP 2 erred in facts to notice that the assessee filed the objections by filing the form 35A duly filled, through email on 09-04-2024 which was within the time limit allowed under the law.

3. The Ld. DRP 2 failed to notice that the objections sent by him through email was followed by sending hard copied through courier which was delivered two days late because of the holidays in between due to Eid-Ul-Fitar. The findings of the Ld. DRP2 was erroneous by not adjudicating the objections duly filed in form No.35A before him within the time allowed under the law.

- 2 -

4. *The order of the Ld. DRP 2, WZ Mumbai may be quashed and the objections restored for consideration by the authority under the law.”*

3. The brief facts of the case are that the assessee is non-resident individual living in Qatar having income from house property in India. During the impugned assessment year, the assessee had purchased a house property for consideration of 1,40,00,000/- in Bangalore. The Department initiated proceedings under Section 147 of the Act and completed the assessment in the hands of the assessee at an income of Rs. 14,15,000/-.

4. The assessee filed objections to the draft assessment framed by the Ld. ACIT, Vadodara. However, the DRP dismissed the appeal of the assessee on the ground that the appeal of the assessee was received on 12.04.2024 which is beyond the time limit prescribed under Section 144C(2) of the Act. While passing the order the DRP made the following observations:

“On perusal of your objection letter, signed one by Shri Javith Anver Basha, following deficiencies have been noted:

1) The application is received on 12-04-2024 which is beyond the limit prescribed u/s 144C(2) of the I.T. Act, 1961.

In this regard, I am directed to inform you that your application for filing of objection dated 12.04.2024 is invalid and cannot be admitted. This is for your information and further necessary action.”

5. The assessee is in appeal before us against the aforesaid order of the DRP dismissing the objections filed by the assessee on the ground that the same are time barred. The Counsel for the assessee submitted that draft assessment order was passed on 11.03.2024, whereas the assessee had filed its objections by way of email dated 09.04.2024 to the office of DRP and also filed hard copy of the objections on 12.04.2024. However, while dismissing the objections filed by the assessee as being time barred, the DRP only took into consideration the date of filing as 12.04.2024 when

the hard copy of the objections were filed by the assessee before DRP and did not take into consideration the objections filed by the assessee by way of email dated 09.04.2024 addressed to DRP. The Counsel for the assessee also filed copy of the email addressed to DRP for our consideration. The Counsel for the assessee submitted that the last date of filing the objections before DRP was 09.04.2024 and the assessee had filed it's objections before DRP on this very date itself i.e. 09.04.2024 by way of email and hence the objections filed by the assessee before the DRP were not time barred.

6. In response, Ld. DR placed reliance on the observations made by the DRP in it's order dismissing the appeal of the assessee.

7. We have heard the rival contentions and perused the material on record.

8. We observe that on perusal of the email in which the objections were filed by the assessee it is seen that the email was addressed to MUMBALITO.HQDRP2@INCOMETAX.GOV.IN which is the same email address which is mentioned in the order passed by the DRP dismissing the objections filed by the assessee. Therefore, from the facts placed on record, it is evident that the assessee had emailed it's objections at the correct email id, but while framing the order dismissing the objections filed by the assessee as time barred, this email communication objecting to the draft orfder was apparently not taken into consideration by the DRP. In our considered view, from the facts placed on record, the appeal of the assessee is not time barred. Accordingly, the matter is restored to the file of DRP for carrying out the necessary verification and if it is found that the assessee had sent the email at the correct address,

then the DRP is directed to dispose of the objections filed by the assessee by looking into the merits of the case of the assessee.

9. In the result, the matter is restored to the file of DRP for carrying out the above directions.

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

This Order pronounced in Open Court on	28/11/2024
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Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

Ahmedabad; Dated 28/11/2024

TANMAY, Sr. PS

TRUE COPY

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad