

IN THE INCOME TAX APPELLATE TRIBUNAL

“G” BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

AND

SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

**ITA No.4493/M/2024
Assessment Year: 2012-13**

**ITA No.4494/M/2024
Assessment Year: 2009-10**

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| Satish Rajaji Rathod Shop No. 13, Tulsi Bldg. 178, Khetwadi Back Road, Khetwadi, Mumbai- 400004. PAN: AACPR2872D | Vs. | ITO Ward- 19(3) 2 3 rd Floor, Piramal Chambers, Parel, Mumbai- 400012. |
| Appellant | : | Respondent |

Present for:

Assessee by

: Shri Suheck Anchaliya

Revenue by

: Shri Suresh Gaikwad, SR. D.R.

Date of Hearing

: 28.11.2024

Date of Pronouncement

: 28.11.2024

ORDER

Per Narendra Kumar Billaiya, A.M.:

ITA No.4493/M/2024 & ITA No.4494/M/2024 are two separate appeals by the assessee preferred against two separate orders of NFAC Delhi dated 02/05/2024 pertaining to A.Y.2009-



10 and 2012-13. Both the appeals were heard together and are disposed off by these common orders for the sake of convenience and brevity.

2. Both the appeals have been filed after the expiry of the period of limitation. We have carefully considered the request for the condonation of delay supported by affidavit.
3. We are convinced that the assessee was prevented by reasonable and sufficient cause for not filing the appeal on time, the delay is condone.
4. The underlying facts are common in both the appeals in as much as both the appeals have been dismissed by the Ld. CIT(A) as not maintainable.
5. We find that since the appeals were filed belatedly before the Ld. CIT(A). The Ld. CIT(A) did not condone the delay and dismissed the appeal as not maintainable.
6. We find that even the assessment orders have been framed ex-parte.
7. Considering the facts of the case in totality, we are of the considered view that the assessee should get one more opportunity to defend its case.
8. Therefore, in the interest of justice and fair play, we deem it fit to restore both the appeals to the files of the Ld.AO.
9. The Ld.AO directed to decide the issues afresh after affording a reasonable and adequate opportunity of being heard to the assessee.



10. In the result, both the appeals are allowed for statistical purpose.

Order pronounced in the open court on 28.11.2024.

Sd/-
RAHUL CHAUDHARY
JUDICIAL MEMBER

Sd/-
NARENDRA KUMAR BILLAIYA
ACCOUNTANT MEMBER

Place: Mumbai,

Dated: 28.11.2024

Snehal C. Ayare, Stenographer

Copy of the order forwarded to :

1. The Appellant
2. The Respondent
3. Ld.DR, ITAT, Mumbai
4. Guard File
5. CIT

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai