

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Smt. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 854/Ahd/2023
Assessment Year 2013-14**

Seema Ajay Ranka Plot No. 61, Zydex House, Gotri Sevasi Road, Gotri, Vadodara-391101 Gujarat, India PAN: ABLPR6874K (Appellant)	Vs	Deputy Commissioner of Income Tax, Circle-1(2), Vadodara (Now DCIT, Circle-1(1)(1), Vadodara (Respondent)
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**Assessee Represented: Shri Bhavin Marfatia, A.R. &
Ms. Amrin Pathan, A.R.
Revenue Represented: Shri V Nandakumar, CIT-DR**

Date of hearing : 26-11-2024
Date of pronouncement : 05-12-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the exparte appellate order dated 17.09.2023 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the reassessment order passed under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2013-14.

2. This is the second round of appeal before this Tribunal. In the first round, the Ld. CIT(A) fixed the case for hearing on 31-07-2016 as there was no representation passed the exparte order on 28-12-2016. On further appeal Co-ordinate Bench of this Tribunal set aside the matter back to the file of Ld. CIT(A) with a direction to decide the matter afresh on merits after giving opportunity of hearing to the assessee. Pursuant to the direction of this Tribunal, the Ld. CIT(A) had given hearing opportunities to the assessee on 04-01-2021, 19-12-2022, 28-07-2023 and 29-08-2023 wherein the assessee made substantial submissions by filing Paper Books, documents and evidences. However the second appellate order was passed on 17-09-2023 by Ld. CIT(A) dismissing the appeal, as such there is a delay of 100 days in filing the above appeal. Further perusal of the Ld. CIT(A)'s order, does not make any reference about the Tribunal setting aside order and there was no opportunity given to the assessee to explain that there was the delay in filing the appeal by the assessee.

3. Ld. Counsel appearing for the assessee submitted that there was no delay in filing the appeal before Ld. CIT(A) and given the relevant Dates and Events as follows:

Dates	Events
05.02.2016	Order passed by the AO
11.02.2016	Service of order to the Appellant
12.03.2016	Due date of filing appeal
08.03.2016	Date of Filing appeal in physical form
15.06.2016	Extended date of e-filing appeal as per Circular No. 20/2016 dated 26.05.2016
14.06.2016	Date of e-filing of appeal

3.1. Thus Ld. Counsel pleaded that there is no delay in filing the appeal either in physical form or as per the e-filing format. Ld. Counsel further brought to our notice that for the earlier Asst. Year 2012-13 which the appeal migrated from physical form to faceless appeal form in Appeal No. CIT(A), Vadodara-5/1022/2015-16 is also pending adjudication, Petition dated 21-10-2022 seeking early hearing is also pending with National Faceless Appeal Centre wherein detailed written submissions and Paper Books in three parts already filed before NFAC. Therefore in the Interest of Justice, this present appeal also be set-aside to the file of NFAC for adjudicating on merits of the case by giving proper opportunity of hearing to the assessee.

4. Ld. CIT-DR could not contravert the above submissions of the assessee.

5. We have heard rival submissions and perused the materials available on record, impugned appellate order passed by NFAC. It is recorded that the appeal was instituted on 14-06-2016 and then migrated to NFAC in terms of the notifications issued by the CBDT. There is no reference about the ITAT's order dated 01-10-2018 in ITA No. 856/Ahd/2017 passed for the very same Asst. Year setting aside the matter back to the file of Ld. CIT(A) and to decide the case on merits. It is seen from the hearing notices given to the assessee, the assessee filed its detailed submissions and Paper Books, but no discussion for opportunity of hearing to the assessee on the so called delay of 100 days in filing the appeal. The Ld. CIT(A) is silent about the physical appeal filed on 08-03-2016, but taken note as

such the e-filing of the appeal was done on 14-06-2016 thereby a delay of 100 days in filing the appeal. Even assuming a moment, if such a delay he ought to have given a show cause notice to the assessee before dismissal of the appeal, which is not done in this case. Even otherwise as per Board Circular No. 20/2016 dated 26-05-2016, the time limit for filing such e-appeals were been extended up to 15-06-2016 which reads as follows:

Circular No. 20/2016

**F.No.279/Misc/M-54/2016/TTJ
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes**

New Delhi, Dated: 26th May, 2016

Subject: E-filing of appeals: Extension of time limit-reg.

Rule 45 of the Income Tax Rules, 1962, mandates compulsory e-filing of appeals before Commissioners of Income Tax (Appeals) with effect from 01.03.2016 in respect of persons who are required to furnish return of income electronically. It has come to the notice of the Central Board of Direct Taxes (hereinafter referred to as the Board) that in some cases the taxpayers who were required to e-file Form 35, were unable to do so due to lack of knowledge about e-filing procedure and/or technical issues in e-filing. Also, the EVC functionality for verification of e-appeals was made operational from 12.05.2016 for individuals and from 19.05.2016 for other persons. Word limit for filing grounds of appeal and mapping of jurisdiction of Commissioners of Income Tax (Appeals) were also a cause of grievance in some cases.

2. The matter has been examined by the Board. While the underlying issues relating to e-filing of appeals have since been addressed and resolved, in order to mitigate any inconvenience caused to the taxpayers on account of the new requirement of mandatory e-filing appeals, **it has**

been decided to extend the time limit for filing of such e-appeals. E-appeals which were due to be filed by 15.05.2016 can be filed up to 15.06.2016. All e-appeals filed within this extended period would be treated as appeals filed in time.

3. In view of the extended window for filing e-appeals, taxpayers who could not successfully e-file their appeal and had filed paper appeals are required to file an e-appeal in accordance with Rule 45 before the extended period i.e. 15.06.2016. Such e-appeals would also be treated as appeals filed within time.

5.1. Thus Ld. CIT(A) without taking note of the Board Circular No. 20/2016 dismissed the appeal as time barred without taking note that e-filing of the appeal done by the assessee on 14-06-2016. Thus NFAC is not following CBDT Circular which is highly not appreciable. But the assessee is being put to task by filing unnecessary appeals for the default on the part of the Department. On the first round of litigation, Ld. CIT(A) granted only one opportunity of hearing to the assessee. In the second round without looking into the merits of the case and detailed submissions filed by the assessee also without considering the CBDT Circular No. 20/2016 dismissed the appeal as time barred. Thus for the casual attitude of the Revenue in dismissing the appeal twice is liable to pay a cost of Rs. 10,000/- to the assessee to meet the ends of justice. However in the interest of Principle of Natural Justice, we deem it fit to set aside the matter back to the file of Ld. CIT(A), NFAC with a direction to pass order on merits for the present Asst. Year 2013-14 within a period of three months from the date of receipt of this order by giving proper opportunity of hearing to the assessee.

6. In the result, **the appeal filed by the Assessee is allowed for statistical purpose.**

7. A copy of this order is also marked to the Chairman Central Board Direct Taxes to give proper instructions and guidance to Ld. CIT(A), NFAC in handling the appeals.

Order pronounced in the open court on 05 -12-2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER
Ahmedabad : Dated 05/12/2024

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

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.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद