

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" NEW DELHI**

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No.1306/Del/2024

निर्धारणवर्ष/Assessment Year: 2012-13

DEEPAK SRIVASTAVA E-23, Saket, New Delhi.	बनाम Vs.	Income Tax Officer Civic Centre, Minto Road, New Delhi.
PAN No. BOPPS7436N		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Shri Sumeet Khanna, CA & Ms. Simran, CA
राजस्वकीओरसे /Revenue by	Shri Sanjay Sharma, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	05.12.2024
उद्घोषणाकीतारीख /Pronouncement on	06.12.2024

आदेश /O R D E R

This appeal is filed by the assessee against the order of the Ld. Addl./JCIT(Appeals)-9, Mumbai dated 23.01.2024 for the AY 2012-13.

2. Ld. Counsel for the assessee, at the outset, submits that the appeal of the assessee is dismissed by the Ld.CIT(Appeals) as the Assessee did not file delay condonation petition for condoning the delay of 9 days in filing appeal before him. Ld. Counsel for the assessee submits that assessee is a Doctor, an NRI and residing in United States of America and occasionally was visiting India.

Assessee filed appeal against the assessment order passed by the Assessing Officer u/s 143(3) r.w.s. 147 of the Act on the addition of Rs.9 lakhs made u/s 69A of the Act on account of unexplained investment in mutual fund. On the advice of the Authorized Representative an appeal was filed before the Ld.CIT(A) with a delay of 9 days and the assessee inadvertently did not file petition for condonation before the Ld.CIT(A). Ld. Counsel submits that in the absence of petition for condonation of delay the Ld.CIT(A) dismissed the appeal of the assessee. Ld. Counsel prayed that the appeal be restored to the file of the Ld.CIT(A) to consider the delay condonation petition which is now filed before the Tribunal.

3. Ld. DR has no serious objection in restoring the appeal to the file of the Ld.CIT(A).

4. Considering the rival submissions and perusing the order of the Ld.CIT(A), I find that the appeal of the assessee was dismissed for want of delay condonation petition for condoning the delay of 9 days. Assessee is a Doctor, an NRI residing in United States who visited India occasionally. He filed an appeal before the Ld.CIT(A) and inadvertently he did not file application for condonation of delay of 9 days, apparently he was not advised so by the Authorized Representative. The assessee filed before me a petition for

condonation of delay explaining the reasons for delay in filing the appeal and requested to condone the delay of 9 days since, the Ld.CIT(A) did not admit the appeal. I am of the view that this matter should go back to the Ld.CIT(A) for adjudication on the petition for condonation of delay and also on the merits. Thus, the appeal is restored to the file of the Ld.CIT(A) who shall decide the delay in filing the appeal by considering the delay condonation petition and pass appropriate orders in accordance with law after providing adequate opportunity of being heard. Grounds raised by the assessee are allowed for statistical purpose.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 06/12/2024

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 06/12/2024

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT
(DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi