

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "D", MUMBAI

Before Justice (Retd.) C V Bhadang, Hon'ble President &
Shri B R Baskaran, Hon'ble Accountant Member

ITA No.5301/Mum/2024
(Assessment Year : 2017-18)

Dipa Parimal Sampat, 23 B Sindhu Baga A, Tilak Road, Ghatkopar (E), Mumbai 400 077. PAN : BFZPS7805E	Vs.	ITO 27(1)(1), Mumbai
(Appellant)		(Respondent)

Appellant By : Shri Romil K Jain
Respondent By : Shri R R Makwana

Date of Hearing : 02.12.2024	Date of Pronouncement: 02.12.2024
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ORDER

Per Justice (Retd.) C V Bhadang, President :

By this appeal, the appellant assessee is challenging the order dated 05.08.2024 passed by National Faceless Appeal Centre (NFAC), Delhi. The appeal relates to A.Y. 2017-18, thereby refusing to condone the delay of 64 days in filing the appeal. The First Appellate Authority has found that the delay of 64 days is an inordinate delay and has not been properly explained and the appellant has not made out a sufficient cause.

2. The brief facts are that the appellant is a housewife and a non-resident Indian residing along with her husband Shri Parimal Sampat in Oman. The appellant had not filed any Return of Income (RoI) for the relevant assessment year claiming that she had no taxable income. The

case was selected for scrutiny and after compliance with the necessary provisions the Assessing Officer by order dated 19.05.2023 made an addition of Rs 2,02,67,674/- purportedly u/s. 69 of the Income tax Act, 1961 ('Act' for short) as unexplained investment.

4. The case of the appellant is that her husband had jointly purchased a house property in Mumbai along with her, for a consideration of ₹2,02,67,500/- in respect of which payment of the consideration was made in instalments from 30.04.2011 till 26.04.2016 as set out on page 3 of the order of the NFAC. Eventually, the agreement of sale was entered into with the developer on 30.03.2016 which was registered on 21.04.2016. According to the appellant, the assessment proceedings in the hands of Shri Parimal Sampat in connection with the purchase of the above house property is underway. It was also contended that as the payments were made much prior to A.Y. 2017-18, the additions could not have been made in A.Y. 2017-18.

5. Be that as it may, there was a delay of 64 days in filing the appeal, before the First Appellate Authority, which the appellant sought to be condoned u/s. 249(2) of the said Act.

6. The First Appellate Authority has refused to condone the delay. Hence this appeal.

7. In so far as the delay is concerned, it is the case of the appellant that she is a housewife based in Oman and had not created any login ID on the ITBA portal and she was not aware of the assessment proceedings. She had also not received any written intimation/notice. She therefore, claimed that she had made out sufficient case for condonation of delay.

8. We have considered the submissions made. The record discloses that the appellant had filed written submissions on 12.07.2024 and tried to

explain the delay. At the outset, we do not find that the delay of 64 days can be said to be an inordinate delay as observed by the learned CIT(A)-NFAC (Delhi). That apart, normally the quantum of the delay is not material as it is necessary to look to the circumstances which led to the delay. In other words, if the appellant had made out sufficient cause for condonation of delay and if it is demonstrated that the appeal could not be filed within time, on account of circumstances beyond the control of the party, the delay deserves to be condoned.

9. The Supreme Court in the case of Collector, Land Acquisition Anantnag & Another vs. Mst. Katiji & Others 167 ITR 471 (SC) and Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and others (2013) 12 SCC 649 has set out the general principles governing the case for condonation of delay. It is now well settled that no party stands to gain by approaching the court late and there is no presumption that the delay is either intentional or out of negligence. In the present case, the record discloses that the appellant is a housewife, NRI based in Oman, and claims that she has not received any intimation. Considering the overall circumstance, we find that the appellant has made out sufficient cause for not filing appeal within time and the delay deserves to be condoned.

10. Accordingly, the appeal is allowed. The impugned order is set aside. The delay in filing the appeal before the NFAC stands condoned. NFAC shall proceed to decide the appeal on its own merits and in accordance with law.

Order pronounced in the open court on 2nd December, 2024.

Sd/-

[B R Baskaran]
ACCOUNTANT MEMBER

Mumbai, Dated : 2nd December, 2024.
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Sd/-

[Justice (Retd.) C V Bhadang]
PRESIDENT

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The PCIT, Mumbai.
4. The CIT
5. The DR, 'D' Bench, ITAT, Mumbai

BY ORDER

//True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai