

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Manjunatha G., Accountant Member
and
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.1004/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Vedre Pranathie Hyderabad [PAN : ABZPV3765B]	Vs.	Income Tax Officer Ward-4(4) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:		
राजस्व द्वारा / Revenue by:		
सुनवाई की तारीख / Date of hearing:		
घोषणा की तारीख / Date of Pronouncement:		

आदेश / ORDER

PER. MANJUNATHA G., A.M:

This appeal filed by the assessee is directed against the order dated 18/06/2024 of the learned Commissioner of Income Tax (Appeals) [Learned CIT(A)], National Faceless Appeal Centre (NFAC), Delhi, relating to A.Y.2017-18.

2. At the outset, we find that the Registry has noticed delay of 46 days in the appeal filed by the assessee. The learned Counsel for the assessee explained that although the Ld.CIT(A) passed order on 18.06.2024, the appellant has received the impugned order of the Ld.CIT(A) on 03.09.2024 and if we

consider the date of receipt of order by the assessee, then there is no delay in filing the appeal, as noticed by the Registry. In this regard, the appellant has filed an affidavit in support of her contention. The Ld.DR present for the Revenue has not controverted the plea of the assessee along with the affidavit. Therefore, considering the ambiguity in the date of service of order passed by the Ld.CIT(A), we presume that the appellant has received the order on 03.09.2024 and therefore, if we consider the date of service of order on 03.09.2024, then there is no delay in filing of appeal before the Tribunal, as noticed by the Registry. Therefore, the arguments of the assessee, in light of affidavit have been accepted and the defect notice issued by the Registry has been considered as explained and accordingly we are of the considered view, that there is no delay in filing of appeal by the assessee before the Tribunal.

5. The brief facts of the case are that the assessee is an individual and not filed her return of income for the A.Y.2017-18 u/s 139(1) of the Income tax Act, 1961 ("the Act"). Therefore, the Assessing Officer issued notice u/s 142(1) of the Act on 09.03.2018 and called upon the assessee to prepare a true and correct return of income, in respect of which the assessee is assessable under the Act. The assessee did not file her return of income in response to notice u/s 142(1) of the Act. Therefore, the Assessing Officer completed the assessment u/s 144 of the Act, on the basis of material available on record and made additions of Rs.99,65,478/-, towards credits including cash deposited into bank account held with Kotak Mahindra Bank

Ltd. as unexplained money taxable u/s 69A of the Act and brought to tax u/s 115BBE of the Act.

6. Being aggrieved by the assessment order, the assessee preferred an appeal before the Ld.CIT(A) and such appeal has been filed with the delay of 42 days. The assessee had also explained the reasons for the delay in filing the appeal. The Ld.CIT(A) dismissed the appeal filed by the assessee, without condoning the delay and also upheld the additions made by the Assessing Officer towards cash deposited u/s 69A r.w.s.115BBE of the Act.

7. Aggrieved by the order of the Ld.CIT(A), the assessee is now in appeal before the Tribunal.

8. The learned Counsel for the assessee submitted that the Ld.CIT(A) has dismissed the appeal filed by the assessee in limine for non filing appeal on or before the due date, even though the appellant had explained the delay of 42 days in filing the appeal before the Ld.CIT(A). Further, the Ld.CIT(A) had also not discussed the issue involved in the appeal on merits. Therefore, he submitted that the delay in filing the appeal before the Ld.CIT(A) may be condoned and the issue may be set aside to the file of the Ld.CIT(A) for deciding the appeal on merits.

9. The learned DR, on the other hand, supporting the order of the Ld.CIT(A) submitted that the assessee could not explain the reasons for the delay in filing the appeal. Further, the assessee has not explained the sources for cash deposited even before the Assessing Officer / Ld.CIT(A). The Ld.CIT(A), after

considering the relevant facts has rightly sustained the additions made by the Assessing Officer towards the cash deposited into bank account during the demonetization period and their order should be upheld.

10. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that there is delay of 42 days in the appeal filed by the assessee before the first appellate authority. The assessee had explained the reasons for the delay in filing the appeal in Column 15 of Form No.35 and as per the reasons given by the assessee, she was under the impression that the Assessing Officer would consider the explanation furnished with regard to cash deposited and there is no further action required in this connection. However, the assessee after noticing the fact that she had not received any order from the Assessing Officer, approached her auditor and found that the Assessing Officer has passed assessment order and uploaded in the ITBA portal. Therefore, immediately taken steps to file appeal, which caused delay of 42 days. However, the said delay is neither intentional nor wanton of any undue benefit. The Ld.CIT(A) could not find any merit in the reasons given by the appellant for not filing the appeal in time and dismissed the appeal. Further, the Ld.CIT(A) rejected the petition filed by the assessee for condonation of delay in one line finding, although the reasons given by the appellant appears to be bonafide and reasonable. Further, the Ld.CIT(A) dismissed the appeal filed by the assessee, without discussing the issues on merits, towards additions made u/s 69A of the Act.

Therefore, we are of the considered view, that the Ld.CIT(A) erred in dismissing the appeal filed by the assessee on technical ground of not filing the appeal on or before the due date and also on merits without giving proper reasons. Therefore, we are of the considered view that the delay in filing of appeal before the first appellate authority needs to be condoned and the matter needs to be remitted back to the file of the Ld.CIT(A) for consideration on merits. Thus, we set aside the order of the Ld.CIT(A) and condone the delay of 42 days in filing the appeal before the first appellate authority and remit the issue back to the file of the Ld.CIT(A) for deciding the issue on merits. The Ld.CIT(A) is directed to decide the issue on merits after providing reasonable opportunity of hearing to the assessee. Needless to say, the assessee shall appear before the Ld.CIT(A) and file necessary evidences without seeking further adjournments.

11. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 9th December, 2024.

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-

(MANJUNATHA G.)
ACCOUNTANT MEMBER

Hyderabad, dated 9th December, 2024

L.Rama, SPS

Copy to:

S.No	Addresses
1	Ms.Vedre Pranathie, Ho.No.3-6-131/1, Flat No.10, Steet No.18, Himayatnagar, Hyderabad
2	The Income Tax Officer, Ward-4(4), Hyderabad
3	The Pr. CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order