

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.422/M/2024
Assessment Year: 2011-12**

Mr. Dineshkumar Bhikharamji, 303, Shivdarshan Building, 3 rd Floor, Umar Khadi, Mumbai – 400 009 Maharashtra PAN: ASFPB8457R	Vs.	Income Tax Officer, WD- 17(1)(4), Kautilya Bhavan, G Block, BKC, Bandra (E), Mumbai, Maharashtra – 400 051
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri V.K. Chaturvedi, Ld. Sr. D.R.

Date of Hearing : 10.12.2024
Date of Pronouncement : 10.12.2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 25.01.2023, impugned herein, passed by the National Faceless Appeal Centre/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2011-12.

2. At the outset, it is observed that notice sent to the Assessee through RPAD for the date of hearing on today, has been returned back by the Postal Department with the remark "Door Locked" as well as "Unclaimed". From the order sheets dated 03.06.2024, 03.09.2024 & 22.10.2024, it appears that though notices issued to the Assessee for such dates of hearing were also issued, however, none appeared on behalf of the Assessee. Considering the aforesaid peculiar facts and

circumstances, this Court is constrained to decide this appeal as ex-parte, on the basis of material available on record and by hearing the Ld. D.R.

3. This Court further observe that there is a delay of 308 days in filing the instant appeal and the Assessee has filed an application for condonation of delay with the following reasons:

“That most of the communications from the Income Tax Department come in the portal and the person who is not knowledgeable about computers remains unaware of the proceedings and therefore largely remains non-compliant and this is the case of the Assessee also. The mobile number used to register on the portal was of the tax preparer, who filed the initial returns and once the Assessee left his services, there was no communication between the Assessee and the tax preparer. This explains the Assessee’s non compliance to various notices sent to him. As bank accounts of the Assessee were seized for non-payment of dues, thus the Assessee’s business was also hampered and therefore the Assessee was in dilemma as he had to pay the taxes due, pay his creditors to keep his business running, to pay his consultant fee, and also to pay the appeal fees. Only after coming to know about the dismissal of the appeal before the Ld. Commissioner, the Assessee earnestly followed up with his CA to file an appeal in Tribunal and therefore requesting the Hon’ble Court to consider the request for condonation of delay liberally taking into account the Assessee’s mental and financial condition and consequently condone the delay”.

4. On the other hand, the Ld. D.R. refuted the claim of the Assessee qua condonation of delay.

5. Heard the Ld. DR and perused the material available on record qua condonation of delay, it is observed that the reason stated by the Assessee in his application for condonation of delay though appears to be plausible, however not substantiated with any substantive evidence/document or duly sworn affidavit, affirming the aforesaid contention raised in the application, hence, this Court is inclined not to condone the delay. Thus, the appeal of the Assessee is dismissed in limine, however, with liberty to the Assessee to seek recall of this order by substantiating the reason for non-appearance as well as the delay involved with supporting documents/material.

6. In the result, the appeal filed by the Assessee stands dismissed in limine.

Order pronounced in the open court on 10.12.2024.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.