



IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2328/PUN/2024

निर्धारण वर्ष / Assessment Year : 2016-17

Balasaheb Ganpat Jare, 116 Sutar Galli, At Matkuli, Tal. Ashti, Beed - 414 203 Maharashtra PAN : ARSPJ9650Q	Vs.	ITO, Ward-1(5), Aurangabad
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Shri Sourabh Nayak
Date of hearing	:	17.12.2024
Date of pronouncement	:	23.12.2024

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

This appeal filed by the assessee pertaining to the assessment year 2016-17 is directed against the order dated 26.09.2024 passed by the National Faceless Appeal Centre, Delhi u/s.250 of the Income Tax Act, 1961 [in short "Id.CIT(A)] which in turn is arising out of Assessment order passed u/s.147 r.w.s.144B of the Act dated 10.05.2023.



2. Facts of the case in brief are that the assessee is an individual stated to be engaged in the business of Sales and Purchase of Food grains oil seeds under the name & style "Jare Traders. The assessee has not filed return of income u/s.139(1) of the Act. Based on the information that the assessee has deposited huge cash amounting to Rs.44,76,784/- in the bank account maintained with Shri Renuka Mata Multi State Urban Cooperative Credit Society Ltd. the case was reopened. Pursuant to notice u/s.148 of the Act, the assessee filed the return of income on 30.01.2023 declaring total income of Rs.4,15,030/-. On perusal of return of income, the Assessing Officer noticed that the assessee did not include the above cash deposits and therefore opined that the income escaped assessment to tax. Notice u/s.142(1) was issued to the assessee to which he filed the requisite details. Therefore, a show cause notice to the assessee calling for certain other details. There was no compliance by the assessee. In the circumstances, the AO made addition of above cash deposits as undisclosed income of the assessee u/s.69 of the Act.

3. Aggrieved assessee challenged the assessment order before the Id.CIT(A)/NFAC with a delay of 202 days. The



ld.CIT(A)/NFAC dismissed the appeal without condoning the delay.

4. Dissatisfied assessee approached the Tribunal challenging the impugned order passed by ld.CIT/NFAC.

5. When the case was called for, none appeared on behalf of the assessee despite due service of notice of hearing. I therefore, proceed to dispose of the appeal with the able assistance of ld. Departmental Representative *exparte* qua the assessee.

6. I have heard the ld. Departmental Representative and perused the material on record. It is an admitted position that the ld.CIT(A)/NFAC dismissed the appeal without condoning the delay. It is the contention of the assessee before ld.CIT(A)/NFAC that the Consultant Mr. Swapnil Bhalgat who was looking after the Tax matters of the assessee failed to make any submissions before the ld.CIT(A)/NFAC which resulted in passing of *exparte* order. In my considered view, the assessee should not suffer because of failure of Tax Consultant to represent before the authority. I am of the considered opinion that the delay in filing the appeal deserves to be condoned. Here, I would like



to quote the decision of Hon'ble Jurisdictional High Court in the case of *Vijay Vishin Meghani vs. DCIT, 389 ITR 250 (Bom.)* wherein it was held that in the matter of condonation of delay an overall view in the larger interest of justice has to be taken. None should be deprived of an adjudication on merits unless the Court of law or the Tribunal/Appellate Authority finds that the litigant has deliberately and intentionally delayed filing of the appeal, that he is careless, negligent and his conduct is lacking in bonafides. I therefore condone the delay of 202 days in filing of the appeal before Id.CIT(A)/NFAC. However, since Id.CIT(A)/NFAC has not adjudicated the issue on merits, I therefore without dwelling into merits of the issue and considering the entirety of facts and circumstances of the case and in the interest of justice, the issues raised on merits are set-aside to the file of Id.CIT(A)/NFAC for necessary adjudication as provided u/s.250(6) of the Act, after affording reasonable opportunities to the assessee in accordance with law. Assessee is also directed to remain vigilant and make satisfactory compliance to the notice(s) of hearing issued by the Id.CIT(A)/NFAC and should refrain from taking adjournments unless otherwise required for



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reasonable cause. Effective grounds of appeal raised by the assessee are allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on this 23rd day of December, 2024.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 23rd December, 2024.
Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.