

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.2038/Bang/2024
Assessment year : 2018-19

Shri Viswanath Prasanna Kumar Dikshit, D-103/2, Karnataka CNC Tech Pvt. Ltd., Industrial Estate, Rajajinagar, Bangalore – 560 044. PAN: ABBPD 0848B	Vs.	The Income Tax Officer, Ward 5[3][1], Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Ms. Sunaina Bhatia, Advocate
Respondent by	:	Shri V. Parithivel, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	02.12.2024
Date of Pronouncement	:	20.12.2024

ORDER

Per Prashant Maharishi, Vice President

1. This appeal is filed by the assessee/appellant for the assessment year 2018-19 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT(A)] dated 20.9.2024 wherein the appeal filed by the assessee against the penalty order u/s. 270A of the Income-tax Act, 1961 (the Act) levying a penalty of Rs.17,72,308 was dismissed by not condoning the delay of 176 days. Thus, the appeal of the assessee was

dismissed *in limine* by the Id. CIT(A). Assessee is aggrieved and is in appeal.

2. The brief facts of the case show that assessee is an individual, did not file his return of income and therefore assessment was completed u/s. 143 r.w.s. 144 r.w.s. 144B of the Act on 16.3.2023 at assessed income of Rs.1.06 lakhs wherein addition of Rs.97,50,000 was made on account of sale of immovable property, salary income and remuneration from the partnership firm in the assessment. Penalty was also initiated u/s. 270A of the Act by penalty order dated 24.8.2023. The same was challenged before the Id. CIT(A) late by 176 days. Assessee explained the delay stating that the assessment order as well as the penalty order were not received by the assessee on email or it has gone into spam folder. Further, the assessee was not aware of the time limits and was not having service of any tax consultant, therefore, it has caused the delay.
3. The Id. CIT(A) did not condone the delay holding that correspondence was delivered to the assessee at the available e-mail address. He was also of the view that assessee has not tried to submit any screenshots and dismissed the appeal as not admitted.
4. The assessee is in appeal before us wherein it was submitted that if this appeal is not admitted, the penalty levied by the Id. AO remains confirmed. However, the assessee who filed an appeal against the quantum order of assessment before the CIT(A) and the

ld. CIT(A) as per order dated 30.10.2024 has set aside the order back to the AO, whereas the penalty appellate order dated 20.9.2024 was passed by the ld. CIT(A) confirming the penalty. The ld. CIT(A) should not have disposed the penalty appeal, unless he disposed the quantum appeal. Therefore, this appeal also be restored back to the file of the AO.

5. The ld. DR supported the order of the ld. lower authorities.
6. In view of this, the appeal of the assessee against the confirmation of the penalty u/s. 270A also deserves to be restored back to the file of the ld. AO in view of the order of the ld. CIT(A) restoring the same matter in quantum appeal to the file of the AO for fresh adjudication. Needless to say that if on reframing the assessment order pursuant to the order of the ld. CIT(A), the ld. AO may reinitiate the penalty u/s. 270A of the Act in accordance with law.
7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court on this 20th day of December, 2024.

Sd/-

Sd/-

(SOUNДАРARAJAN K.)
JUDICIAL MEMBER

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 20th December, 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.