

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“PATNA BENCH, PATNA**  
**VIRTUAL HEARING AT KOLKATA**

**Before Shri Sonjoy Sarma, Judicial Member and Shri Sanjay Awasthi, Accountant Member**

**I.T.A. Nos.378 to 380/Pat/2024**  
Assessment Years: 2016-17 & 2018-19

**The Begusarai Central Cooperative Bank Ltd.....Appellant**  
**Mungerigangj, Cooperative Bank Road,**  
**Begusara, Bihar-851101.**  
**[PAN: AAAJT1701F]**

**vs.**

**DC/AC, Circle-2, Begusarai.....Respondent**

**Appearances by:**

Shri Sanjeev Anwar, AR, appeared on behalf of the appellant.

Shri Rinku Singh, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 19, 2024

Date of pronouncing the order : December 23, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

These three appeals have been preferred by the assessee for different assessment years i.e 2016-17 & 2018-19 against separate orders of the National Faceless Appeal Centre [hereinafter referred to as ‘CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the ‘Act’) respectively. Since, the issues involved in these appeals are common except difference in figures and relate to the same assessee, therefore, these appeals have been heard together and are being disposed of by this consolidated order.

2. First, we take up the issue in respect of ITA No.378/Pat/2024 for assessment year 2016-17. Brief facts of the case are that the assessee is a co-operative bank and filed its return of income declaring total income of Rs.1,00,60,860/-. The case of the assessee was selected for scrutiny and the Assessing Officer after considering the submission of the

assessee made an addition u/s 143(3) r.w.s. 144B of the Act by assessing total income of the assessee at Rs.4,58,90,261/-.

3. Dissatisfied with the above order, the assessee challenged the order of intimation by filing appeal before the ld. CIT(A). However, ld. CIT(A) did not consider the appeal of the assessee and dismissed the appeal of the assessee only on the ground that there was a delay of 254 days in filing the appeal before him. While passing the impugned order, the ld. CIT(A) did not consider the case on merit but simply dismissed the appeal on the ground of delay.

4. Aggrieved, the assessee is in appeal before this Tribunal raising multiple grounds, however, the sole grievance of the assessee is that while passing the impugned order, the ld. CIT(A) did not look into the merit of the case which is a valid point as prescribed u/s 250(6) of the Act. The ld. AR also highlighted that not deciding the appeal on merits would result in undue hardship and the action of the ld. CIT(A) is a violation of principles of natural justice. The ld. AR contended that the delay in filing the appeal is due to negligence of the earlier counsel engaged who failed to file the appeals on time and due to the negligence of the counsel, the assessee should not be suffered. The ld. AR further submitted that the delay in filing the appeal is neither wilful nor attributable to any extraneous or ulterior motive on the part of the assessee and the assessee is not benefitted in any way from delayed filing of this appeal. The ld. AR in order to substantiate the submission has stated that as per Article 265 of the Constitution of India emphasises that no tax can be levied and collected except by authority of law, however, denial of hearing on merit of the case only on the ground of delay is not proper. The ld. AR, therefore, prayed for condonation of delay and requested that direction may be issued to the ld. CIT(A) to reexamine

the issue afresh in accordance with law after giving reasonable opportunity of being heard to the assessee.

5. On the other hand, the ld. DR opposed to the condonation of delay and argued that the assessee did not demonstrate any reasonable cause for the inordinate delay in filing the appeal. That if at this stage, the appeals may be entertained after such long delay, it could set as wrong precedent, therefore, the appeal may be dismissed.

6. After hearing the rival submissions and perusing the materials available on record, we find that there was substantial delay in filing the appeal. However, we emphasise that the opportunity of justice cannot be sacrificed at the alter of the technicalities. We note that it is well-settled principle that justice should prevail over procedural lapses especially when a party shows genuine intention to rectify its error. Hon'ble Supreme Court in number of cases, time and again, held that when merits and technicalities pitted against each other, then merit alone deserves to be prevailed, because, if you throw out a meritorious case out of judicial scrutiny on the grounds of technicalities, then you may deprive the right of the petitioner in pursuing their case. We find that the assessee explained the delay occurred due to negligence of the then engaged counsel, however, this explanation by itself cannot be considered as entirely satisfactory. We also feel that denial of opportunity of being heard on merits would cause irreparable injustice to the assessee. We also note that the merit of the case should not be ignored due to procedural delay, especially when the tax liability involved substantial right. Under the circumstances, we set aside the order of the ld. CIT(A) after condoning the delay of 254 days and remand the matter back to the file of the ld. CIT(A) with a direction to reexamine the issue afresh after granting due opportunity of being heard to the assessee We also direct the assessee-society to strictly comply with the notices issued

by the Id. CIT(A) and furnish all necessary documents to substantiate its claim. In terms of the above findings, the instant appeal of the assessee is allowed for statistical purposes.

7. Since the facts and issues involved in I.T.A. Nos.379&380/Pat/2024 are identical to that has been discussed in ITA No.378/Pat/2024 including delay of 150 & 366 days respectively are also condoned, our findings/directions given above will mutatis mutandis apply to these appeals also.

8. In the result, all the captioned appeals of the assessee are allowed for statistical purposes.

***Kolkata, the 23<sup>rd</sup> December, 2024.***

**[Sanjay Awasthi]  
Accountant Member**

**[Sonjoy Sarma]  
Judicial Member**

Dated: 23.12.2024.

*RS*

*Copy of the order forwarded to:*

1. The Begusarai Central Cooperative Bank Ltd
2. DC/AC, Circle-2, Begusarai
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

*//True copy//*

By order

Assistant Registrar, Kolkata Benches