



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

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2292/PUN/2024

निर्धारण वर्ष / Assessment Year : 2013-14

Mayur Ashok Melvanki, Narendra Housing Society, Tambe Mala, Ichalkaranji – 416 115 Maharashtra PAN : AMUPM4057H	Vs.	ITO, Ward-1, Ichalkaranji
Appellant		Respondent

Assessee by	:	Smt. Deepa Khare
Revenue by	:	Shri Sourabh Nayak
Date of hearing	:	16.12.2024
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 2013-14 is directed against the order dated 15.09.2024 passed by National Faceless Appeal Centre, Delhi u/s.250 of the Income Tax Act, 1961 [in short 'the Act'] which in turn is arising out of Assessment order passed u/s.147 r.w.s.144 r.w.s.144B of the Act, dated 21.09.2021.



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2. At the outset, ld. Counsel for the assessee submitted that the assessment order was framed during Covid-19 on 21.09.2021 and after the end of limitation period the assessee filed an appeal before the ld.CIT(A)/NFAC on 12.09.2022 wherein there was delay of around 100 days only after excluding the covid-19 pandemic outbreak period. But ld.CIT(A)/NFAC has referred to the delay of 326 days in filing the appeal without considering the covid-19 period from the date of the assessment order. It is further submitted that the ld.CIT(A)/NFAC has not dealt the issues on merit and has dismissed the appeal *in limine* without condoning the delay and has not considered the reasonable cause which prevented the assessee from filing the appeal in time and therefore prayed for restoring the issues to the file of ld.CIT(A)/NFAC.

3. On the other hand, ld. Departmental Vehemently argued supporting the order of ld.CIT(A)/NFAC.

4. I have heard the rival submissions and perused the record placed before the Tribunal. I notice that the assessee is an individual filing the returns regularly for the A.Y. 2009-10 to 2011-12 and 2014-15 to 2019-20 but surprisingly did not file the return of income for A.Y. 2013-14 for which the instant appeal is filed before the Tribunal. During the year under consideration, a sum of Rs.23,74,239/- was deposited in the



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bank account held with ICICI bank. Based on this information received by the ld. AO through Accelerated Sales Tax/ Annual Information Return (AST/AIR), ld. AO asked the assessee to file the return but the assessee did not file the return of income which was subsequently followed by issuance of notices u/s.148 and 142(1) of the Act. Again the assessee did not respond, which left no option with the Assessing Officer to make the addition for the alleged unexplained cash deposit of Rs.23,74,239/- u/s.69A of the Act. Neither before the ld.CIT(A)/NFAC nor even before the Tribunal the assessee has filed the details explaining about the sources of cash deposit. *Prima-facie*, the assessee did not deserve second round of appeal proceedings. But the ld.CIT(A) has dismissed the assessee's appeal in limine by not condoning the delay of 326 days and has not dealt the issue on merits as contemplated u/s.250(6) of the Act, which provides that for adjudicating the appeal, the ld. CIT(A)/NFAC should dispose of the same in writing and shall state the points for determination, the decision thereon and the reason for that decision.

5. As far as prayer of Ld. Counsel for the assessee to condone the delay occurred in filing the appeal to ld.CIT(A)/NFAC it is a fact that ld.CIT(A)/NFAC did not consider the covid-19 pandemic outbreak prevailed across the country while dealing with delay



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reckoning the period of limitation by virtue of judgment of Hon'ble Supreme Court in the case of *Cognizance for Extension of Limitation In re (2022) 441 ITR 722 (SC)*. The period of delay ought to have condoned by the ld.CIT(A)/NFAC in light of 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 around 326 days in filing of appeal before ld.CIT(A)/NFAC.

6. As far as merits of the case are concerned, considering the facts and circumstances of the instant case and in the interest of natural justice, the issue raised in the instant appeal is remitted back to the file of ld. CIT(A)/NFAC for *denovo* adjudication. For doing the needful, reasonable opportunity has to be granted to the assessee to furnish submissions and other evidences if needed and if such evidences are filed for the first time before ld.CIT(A)/NFAC, then a remand report may be called from Jurisdictional Assessing Officer rather than remitting the issue to ld. AO. On due consideration of the same, ld. CIT(A)/NFAC



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shall pass a speaking order in accordance with law. The assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause, failing which the Id.CIT(A)/NFAC shall be free to proceed in accordance with law. Finding of the CIT(A)/NFAC is set aside and 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



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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.