

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.476/Nag./2024**  
(Assessment Year : 2014-15)

Anant Ramrao Chavan  
Murtizapur Road, Daryapur 444 803  
PAN – ALEPC7718C

..... Appellant

v/s

Income Tax Officer  
Ward-1, Amravati

..... Respondent

Assessee by : None  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 17/12/2024

Date of Order – 26/12/2024

**ORDER**

**PER K.M. ROY, A.M.**

Captioned appeal by the assessee is against the impugned order dated 27/02/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2014-15.

2. In its appeal, the assessee has raised following grounds:-

*"1. Long Term Capital Gain determined at Rs.96,90,000/- in the assessment order u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 is unjustified, unwarranted and bad in law.*

*2. The learned A.O. and CIT(A) ought to have accepted the net income at Rs.Nil as shown in the return of income on the basis of income and expenditure account having net loss of Rs. 13,275/-.*

*3. The learned A.O./CIT(A) erred in assessing income at Rs.96,90,000/- ignoring the submission as made in the assessment proceedings.*

*4. The learned A.O./CIT (A) erred in assessing the Long Term Capital Gain on sale of immovable asset ignoring the situation of its conversion into industrial purposes in earlier years without giving sufficient opportunity in the interest of justice which is unjustified and unwarranted.*

*5. The learned A.O./CIT(A) ought to have given the benefits of cost of inflation index while attracting the provisions of capital gain on sale of land which is not given in the order.*

*6. The learned CIT (A) erred in not deciding the issue on merits only because of delay. The learned CIT (A) is unjustified in dismissing the appeal which is required to be condoned on bonafide reason. The appellant prays that the delay be condoned and appeal should be taken up for hearing.*

*7. The assessee denies liability to pay interest under section 234A, 234B and 234C of I.T. Act 1961. Without prejudice, levy of interest under section 234A, 234B and 234C of I.T. Act 1961 is unjustified, unwarranted and excessive.*

*8. Any other ground that shall be prayed at the time of hearing."*

3. The assessee is a businessman running business of ginning & pressing factory of cotton. He also has an agricultural income from ancestral property. During the year under consideration, the assessee sold an ancestral rural agricultural land admeasuring 0.85R of GAT No.129 Mauje Ganeshpur, Tq. Daryapur, Dist. Amravati on 17/01/2014 for a consideration of ₹ 1,02,00,000. As the assessee has not filed return of income for the said year, the case of the assessee was re-opened for scrutiny proceeding under section 147 of the Income Tax Act, 1961 ("the Act"). During the assessment proceeding, the assessee filed his return of income on 24/12/2019 showing net business loss of ₹ 13,275, and agricultural income of ₹ 17,82,492, for the year 2013-14. But the Assessing Officer considered the ancestral agricultural land as a capital asset since the same failed to meet distance criterion and thus long term capital gain assessed at ₹ 96,90,000, and demand raised of ₹ 32,48,488, vide order passed under section 143(3) r/w section 147 of the Act.

4. It is noted that the date of service of assessment order was 19/01/2020; and the appeal filed before the learned CIT(A) is 10/12/2021. Thus, there was a delay of 661 days in filing the appeal. The learned CIT(A) did not condone the delay and did not admit the appeal for adjudication on merit and hence the appeal was dismissed. Even before the Tribunal also, the assessee filed appeal with a delay of 125 days. The assessee filed application dated nil in support of which a detailed Affidavit explaining the cause of delay, was also filed. The contents of the Affidavit are reproduced below:–

*"1) 1, Anant Ramrao Chavan aged about 54 years, son of Shri. Ramrao Chavan identified by PAN- ALEPC7718C at present residing at S.No. 129 & 133, Murtizapur Road, Daryapur, Amravati, Maharashtra- 444803 do solemnly affirm and state as under:*

*2) That I received notice of order u/s 250 of the Income Tax Act, 1961 for A.Y.2014-15 on date 06th March 2024.*

*3) That as per the said intimation I found that my returned income has been enhanced by Rs.96,90,000/- and consequential demand of Rs.32,48,488/-has been confirmed by the CIT (A) against me.*

*4) That due to my continuous health issues I could not attend my legal counsel for the same. My legal counsel has also not taken any action against the said notice. Later on I have change my legal counsel and I was advised by the legal consultant to file an appeal before the Hon'ble ITAT for relief but the appeal has already become barred by time limitation. Nevertheless the appeal was filed before this Hon'ble ITAT on date 30/08/2024 accompanied by an application for condonation of delay.*

*5) That in this way there is a delay of 125 days for which an application has been filed alongwith memorandum of an appeal.*

*6) That delay in filing an appeal is because of a genuine mistake and I had no intention to jeopardize the interest of revenue by delaying the filing of the appeal."*

5. After considering the submissions of the learned Authorised Representative and averments made in the affidavit, we are of the opinion that the assessee was prevented in filing the appeal belatedly and we are

satisfied that the delay in filing the appeal is due to reasonable cause. Consequently, we condone the delay in filing the present appeal and admit the same for adjudication on merit.

6. Primarily, the delay before the learned CIT(A) is covered by pandemic period which commenced from 20/03/2020 and period from 15/03/2020 till 2/02/2022 stood excluded for the purpose of limitation. Hence, we direct the learned CIT(A) to condone the delay and the matter is restored to his file for denovo adjudication on merits in accordance with law and after providing reasonable opportunity of being heard to the assessee. When the Apex Court had already condoned such delay, there was no point of difference by the learned CIT(A) and he should have condoned the delay.

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

Order pronounced in the open Court on 26/12/2024

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**NAGPUR, DATED: 26/12/2024**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur