

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"F" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER  
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No. 5823/MUM/2024  
(Assessment Year: 2020-2021)**

**Jain Investment Advisors Pvt. Ltd.**

1 1, Andheri Anurag CHS, Bhardawadi,  
Near ICICI Colony, Andheri (West)  
Mumbai – 400058, Maharashtra  
[PAN: AACCJ3302M]

..... **Appellant**

Vs

**Income Tax Officer**

**Ward 10(2)(1), Mumbai**

7<sup>th</sup> Floor, Kautilya Bhavan,  
C-41 to C-43, G Block,  
Bandra Kurla Complex  
Bandra (East), Mumbai – 400051

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Tanzil Padvekar  
For the Respondent/Department : Shri Ajay Singh

**Date**

Conclusion of hearing : 23.12.2024  
Pronouncement of order : 23.12.2024

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Assessee has challenged the order dated 12/09/2024, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as the '**CIT(A)**'], whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 23/09/2022, passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**') for the Assessment Year 2020-2021.
2. The Assessee has raised following grounds of appeal :

- "1. *On the facts and in law, Ld. Commissioner of Income Tax (Appeals) [in short CIT(A)] erred in passing the impugned order under Section 250 of the act, confirming the additions made by Ld. Assessing officer by determining total income at Rs.8,88,86,303/- as against return of income of Rs.3,11,42,740/-.*
  2. *On the facts and in law, Ld. CIT(A) erred in dismissing the appeal file by the appellant, without deciding the appeal on method of the matter.*
  3. *On the facts and in law, Ld. CIT(A) ought to have considered reasonable cause for filing appeal belatedly which was approximately 6 months. The Ld. CIT(A) erred in rejecting requests for condonation of delay in filing appeal, which is in gross violation of principles of Natural justice.*
  4. *On the facts and in law, this Hon'ble Tribunal be pleased to condone delay in filing of appeal before CIT(A) and all this appeal to be decided in merits."*
3. The relevant facts in brief are the appeal preferred by the Assessee against the Assessment Order, dated, 23/09/2022 passed under Section 143(3) read with Section 144B of the Act was dismissed by the Ld. CIT(A), vide order dated 12/09/2024, on the ground that the appeal preferred by the Assessee was barred by limitation.
  4. Being aggrieved, the Assessee has preferred the present appeal before the CIT(A) on the grounds reproduced in paragraph 2 above.
  5. The learned Authorised Representative for the Assessee appearing before us submitted that the reason stated in the impugned order, dated 12/09/2024, passed by the CIT(A) was never furnished by the Assessee and that the CIT(A) had proceeded to dismiss the appeal on the basis of incorrect understanding of facts. He submitted that there was a delay of around 6 months in filing the appeal since the Assessment Order,

dated 23/09/2022, was sent on email id of an employee of the Assessee/company who was relieved of his services on 31/08/2022. The aforesaid submissions were supported by the copy of printouts from Income Tax Business Application (ITBA) portal and copy of a certificate issued by the Assessee company to the aforesaid employee. It was further submitted that the Assessee was not able to place the aforesaid documents/explanation for consideration before CIT(A), as the appeal was dismissed without granting the Assessee opportunity of being heard.

6. Per contra, the learned Departmental Representative relied upon the order passed by the CIT(A) and submitted that the Assessee did not have sufficient cause for not presenting the appeal before the CIT(A) within the prescribed time of 30 days.
7. Having considered the rival submissions and on perusal of record we find merit in the submission advanced on behalf of the Assessee that the CIT(A) had dismissed the appeal without giving the Assessee an opportunity to explain the reasons for delay in filing the appeal. We note that in paragraph 2 of the order impugned, the CIT(A) has reproduced the facts stated by the Assessee in Memorandum of Appeal (in Form 35) filed before CIT(A). On perusal of paragraph 3 of the order impugned the CIT(A) has noted that the Assessee has stated 'illness of the counsel' as the reason for delay in filing appeal before the CIT(A). However, a perusal of Form 35 shows that no such reason was provided by the Assessee. During the appellate proceedings before us the Assessee has explained the reasons for delay in filing the appeal before the CIT(A). In view of the aforesaid facts, we deemed it appropriate to set aside the order, dated 12/09/2024, passed by the CIT(A). The Assessee is directed to file application seeking condonation of delay for filing appeal

before CIT(A) explaining the reasons alongwith supporting affidavit and documents. The CIT(A) is directed to decide the aforesaid application seeking condonation of delay in filing appeal as per law after granting the Assessee a reasonable opportunity of being heard, and thereafter, adjudicate the grounds raised by the Assessee in appeal before CIT(A), in case the delay in filing the appeal is condoned. It is clarified that in case the Assessee fails to enter appearance before the CIT(A) or fails to file relevant application, affidavit, documents, etc., the CIT(A) would be at liberty to adjudicate the issue of admission of appeal and/or on the grounds raised in appeal on merits, as the case may be, on the basis of material on record.

8. In terms of the above, Ground No. 3 raised by the Assessee is allowed for statistical purposes whereas all the other grounds raised by the Assessee are dismissed as being infructuous.
9. In result the present appeal is allowed for statistical purposes.

Order pronounced on 23.12.2024.

**Sd/-**  
**(Omkareshwar Chidara)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 23.12.2024  
Milan, LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,  
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai