

**IN THE INCOME-TAX APPELLATE TRIBUNAL "B" BENCH,
MUMBAI**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 4085/MUM/2024
(A.Y. 2014-15)**

Noble Medical Centre 1,2,5 Ratan Apartment, S.V. Road, Borivali (West), Maharashtra-400092	v/s. बनाम	ACIT, Circle 32(2), Mumbai Aayakar Bhavan, Mumbai Maharashtra-400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AACFN8496M		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	None
Respondent by :	Shri Paresh Deshpande

Date of Hearing	08.10.2024
Date of Pronouncement	12.11.2024

आदेश / O R D E R

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the Learned Additional Commissioner of Income-tax (Appeals), Mumbai-44/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] dated 20.06.2024 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for Assessment Year [A.Y.] 2014-15.

2. The assessee has raised following grounds of appeal:

"1. On the facts and circumstances of the case, the order dated 20.06.2024 passed by Hon'ble Addl/JCIT (A)-1, Jaipur ("CITA") dismissing appeal of Your

Appellant on the ground of delay in filing appeal is bad and is against the principles of natural justice and is liable to be quashed.

2. On the facts and circumstances of the case, CITA has erred in dismissing appeal without affording an opportunity to Your Petitioner to explain delay in filing of appeal and the same is against the cardinal principles of natural justice.

3. On the facts and circumstances of the case, CITA has erred in holding that Your Appellant has failed to show "sufficient reason" as it was never confronted with the Issue of delay in filing appeal despite notices of hearing were issued three times.

4. On the facts and circumstances of the case, CITA ought to have accepted the circumstances explaining delay of 156 days in filing appeal and the same was not deliberate and/or there was any mala fide intent and has also filed an appeal against order imposing penalty u/s. 271(1)(c) in time.

5. On the facts and circumstances of the case order passed by AO is bad as the addition is made on the ground that Your Appellant has made accommodation entry of scientific donation of Rs. 10,00,000/- made to School of Human Genetics and Population Health as they were holding valid and subsisting certificate u/s. 35 of the Act and Jurisdictional Tribunals as well as other Hon'ble ITATs have consistently deleted additions u/s. 69C of the Act and based on such decided cases Your Appellant also has very high degree of chance in succeeding in its case.

6. On the facts and circumstances of the case & In law the action of AO of reopening of assessment u/s. 148 and without recording and providing of the reasons for reopening and approval for the same from CIT. is bad in law and void-ab-initio and therefore the assessment order deserves to be quashed.

7. On the facts and circumstances of the case, Your Appellant prays that as assessment order was passed u/s. 144 of the Act and as CITA has dismissed its appeal on the ground of delay in filing appeal, in the Interest of the natural justice and in all fairness, matter be restored back to either to CITA by condoning the delay in filing appeal to allow an opportunity to Your Appellant to submit its case.

8. Without prejudice to the above, Your Appellant craves Your Honours leave to add, amend, modify and/or withdraw any and/or all the grounds of appeal on or before the finalization of appeal."

3. The brief facts of the case are that the assessee filed original return on 30.09.2014 declaring total income of Rs. 3,11,67,960/-. The return was processed u/s 143(1) of the Act. Subsequently, based on the information received from the Investigation Wing the case was reopened. During a survey u/s 133A conducted on School of Human Genetics and Population Health,



Kolkata (SHG), it was gathered that the assessee firm had deducted an amount of Rs. 10,00,000/- as scientific research work charges paid to SHG which was subsequently returned to it in the form of cash. In view of these facts, notice u/s 148 was issued on 29.03.2017, in response to which the assessee filed a letter dated 05.04.2017 with a request to treat the original return as return filed in response to the notice u/s 148. As the assessee did not furnish any reply or documentary evidence to prove the genuineness of the transaction relating to payment towards scientific research charges, the AO passed the assessment order u/s 143(3) r.w.s. 147 after making an addition of Rs. 10,00,000/- on account of unexplained expenditure u/s 69C of the Act.

4. Aggrieved with the said order, the assessee filed an appeal before the Ld. CIT(A) which was delayed by 156 days. The Ld. CIT(A), however, did not condone the delay and dismissed the appeal of the assessee without going into the merits.

Aggrieved with the said order, the assessee has filed an appeal before us.

5. We have carefully considered the submissions and material before us. It is clear that the Ld. CIT(A) had dismissed the appeal without giving opportunity to the assessee to explain the reasons for delay in filing of the appeal. As the appeal has not been decided on merits, we deem it fit to restore the matter to the Ld. CIT(A). The delay of 156 days in filing of the appeal before Ld. CIT(A) should be treated as condoned. Ld. CIT(A) is directed to pass a fresh order on



merits after giving due opportunity to the assessee. The assessee is also directed to cooperate and furnish requisite details before the Ld. CIT(A).

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 12.11.2024.

Sd/-

BEENA PILLAI

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 12.11.2024

अनिकेत सिंह राजपूत/ स्टेनो

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

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

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

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

