

**IN THE INCOME-TAX APPELLATE TRIBUNAL “D” BENCH,
MUMBAI**

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

**ITA No. 3654/MUM/2024
(A.Y. 2020-21)**

Deonar Bongiya Parishad Kali Temple Premises, Near Sarnath Building, Anushakti Nagar, Mumbai-400094	v/s. बनाम	The Asst. Director of Income-tax, CPC, Bengaluru
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAATD9840R		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Assessee by :	Shri Harsh M. Kapadia
Revenue by :	Shri R. R. Makwana

Date of Hearing	07.11.2024
Date of Pronouncement	29.11.2024

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the Learned Additional Commissioner of Income-tax (Appeals), Bhubaneswar/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 27.05.2024 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2020-21.

2. The assessee has raised following grounds of appeal:

“1. a) On the facts and in the circumstances of the case and in law. the Id. Addl/JCIT(A), Bhubaneswar erred in dismissing the appeal filed by the Appellant Trust against the Intimation u/s.143(1) dated 30-11-2021 in

summary manner on the plea that the appeal was filed beyond the due date prescribed under law and sufficient reasons for such delay are not established. b. The Id. Bhubaneswar Addl/JCIT(A), failed to appreciate that the Appellant was prevented by sufficient cause from furnishing the appeal in time before the Addl/JCIT(A), Bhubaneswar and the delay in presenting the appeal ought to have been condoned in the fairness of law as the delay was not stemmed from negligence or lack diligence. of

2. On the facts and in the circumstances of the case and in law, the Id Addl/JCIT(A), Bhubaneswar erred in not adjudicating on Ground No.1 raised by the Appellant disputing the disallowance of expenses to the tune of Rs. 64,26,786/- laid out or expended wholly and exclusively for the purpose of making or earning income by the Appellant Trust.”

3. The brief facts of the case are that the assessee is a trust which is managing a Kali Mandir in Mumbai. It does not have registration u/s 12A of the Act during the year under consideration. The assessee furnished complete details of its income and expenditure in the return filed for AY 2020-21. However, wrong ITR form was selected by the assessee inadvertently. The return was processed by the Central Processing Centre, Bengaluru [CPC] and the entire expenditure of Rs. 64,26,786/- was disallowed.

4. Aggrieved with the said order of the CPC, the assessee filed an appeal before Ld. Addl. CIT(A). It was submitted before the Ld. Addl. CIT(A) that the mistake was inadvertent and therefore, the assessee requested that return filed in ITR 7 should be treated as valid return and the addition made on account of disallowance of the entire expenses should be deleted. However, Ld. Addl. CIT(A) noted that the appeal was delayed by almost 418 days and sought assessee's explanation regarding the same. The assessee explained that it was trying to file a rectification application on the portal, however, despite several attempts, he could not succeed in filing it. Accordingly, the assessee resorted to



the alternative remedy of filing of an appeal. The appeal was delayed on this account. Vide order dated 27.05.2024, Ld. Addl. CIT(A) did not consider the explanation of the assessee as a good and sufficient reason for condoning the delay. Accordingly, the appeal of the assessee was dismissed.

5. Aggrieved with the order of the Ld. Addl. CIT(A), the assessee is in appeal before us. Ld. AR has filed documentary evidences to show that efforts were made repeatedly to file the rectification application on the portal and grievances were also raised in this regard from time to time. Ld. AR has, therefore, requested that the delay in filing of appeal should have been condoned by the Ld. Addl. CIT(A). Ld. AR has also brought to our notice a decision of the co-ordinate bench in the case of **Arya Samaj v/s ITO (2023) 151 taxmann.com 488 (Delhi -Trib)** on a similar issue. Vide order dated 28.12.2022 (supra), the co-ordinate bench has held as under:

“13. Before us, it was pleaded that the assessee has wrongly filled the column A(i) pertaining to "Other details" the ITR 7 and since CPC is a automated process, the adjustment has also been wrongly made it was argued that had there been a notice issued before making an adjustment, the same would have been brought to the notice of the revenue authorities. On the other hand, the Id. DR argued that the order u 43(1) is based on the return filed by the assessee.

14. Having gone through the entire factum of the case, we hold that a right tax has to be collected from the right person and though the CPC has processed the return based on the information given by the assessee, and when the information given by the assessee itself is incorrect in filling of the relevant column, the same needs to be allowed to be rectified in the interest of justice. Hence, the matter is remanded back to the file of the JAO to consider the earlier return and subsequent return filed by the assessee and the mistake in filling the column no. A(f) be rectified.”



6. On the other hand, Ld. DR has placed reliance on the orders of the lower authorities and has reiterated that the assessee itself had filed incorrect return and therefore, the return was processed accordingly.

7. We have heard the rival submissions. In view of the explanation given by the assessee along with documentary evidences demonstrating reasons for delay, we, hereby, condone the delay in filing of appeal. Further, the order of the Ld. Addl. CIT(A) is set aside and the matter is remanded to the Ld. AO for considering the issue on merits in the light decision of the co-ordinate bench cited above.

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

Order pronounced in the open court on 29.11.2024.

Sd/-

BEENA PILLAI

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 29.11.2024

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.

