

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.507 and 508/Nag./2024
(Assessment Year : 2017-18 and 2018-19)

Govind Shrikant Kabra
Shri Narayan Niketan
Behind Oswal Bhawan
Ajitnath Mandir Lane
Bhaji Mandi, Itwari, Nagpur 440 002
PAN – BBQPK4099F

..... Appellant

v/s

Income Tax Officer
Ward-5(3), Nagpur

..... Respondent

Assessee by : Shri Rachit Thakkar
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 21/01/2025

Date of Order – 23/01/2025

ORDER

PER V. DURGA RAO, J.M.

These appeals by the assessee are against the impugned order dated 24/05/2024, passed for the assessment year 2017-18 and order dated 30/01/2024, passed for the assessment year 2018-19, by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*].

2. When these cases were called for hearing, the Registry has pointed out that the appeal being ITA no.507/Nag./2024, for A.Y. 2017-18, is barred by limitation and is filed belated by 56 days. Similarly, the appeal being ITA no.

508/Nag./2024, for A.Y. 2018–19 is also belatedly filed after 171 days of limitation. The assessee has filed application dated 17/09/2024, for condonation of delay in both the years under consideration and in support of which affidavit is also placed on record.

3. After considering the submissions of the learned Authorised Representative and averments made in the application, we are of the opinion that the assessee is prevented in filing the appeal belatedly and we are satisfied that the delay in filing these appeals are due to reasonable cause. Consequently, we condone the delay in filing the present appeals and admit the same for adjudication on merits.

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5. During the course of hearing, the learned A.R. appearing for the assessee submitted that in both the appeals, the learned CIT(A) passed ex-parte orders and prayed that one opportunity may be granted by restoring the appeals to the file of the learned CIT(A) to enable the assessee to substantiate its cases before the learned CIT(A).

2. On the other hand, the learned D.R. submitted that despite the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee did not appear before the learned CIT(A) and not furnished relevant details. He strongly supported the orders passed by the learned CIT(A).

3. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. We find that though the learned CIT(A) granted opportunities to the assessee to substantiate its

cases, ultimately, the orders passed by him are ex-parte orders. Therefore, we are of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate the cases before the learned CIT(A). In view of the above, the orders passed by the learned CIT(A) are set aside for both the years under consideration and remit the appeals back to the file of the learned CIT(A) and direct him to adjudicate the matters afresh on merit and in accordance with law after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in both the appeals are allowed for statistical purposes. Be that as it may.

4. Insofar as non-appearance of the assessee before the authorities below are concerned, the primary onus lies on the assessee to co-operate in the proceedings before the learned CIT(A) and the Assessing Officer. In case, the assessee does not do so, he deserves to be penalized and hence we feel that the penalty has to be imposed upon the assessee and the same should be commensurate to the default committed by him. As a result of non-compliance and procedural delays, we deem it appropriate to impose a cost upon the assessee for an amount of ₹ 5,000 (Rupees Five Thousand Only) for each appeal aggregating to ₹ 10,000 (Rupees Ten Thousand Only) payable to the Maharashtra State Legal Services Authority and adduce evidence of payment before the learned CIT(A). This cost underscores the importance of adhering to procedural requirements and timely compliance during assessment and appellate proceedings.

5. In the result, appeals for A.Y. 2017-18 and 2018-19 filed by the assessee are allowed for statistical purposes subject to the terms indicated above.

Order pronounced in the open Court on 23/01/2025

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 23/01/2025

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