

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.257 to 261/Nag./2024
(Assessment Year : 2013-14 to 2017-18)

Sumedh Sopanrao Manwar
75/2, Wai, Karanja Lad Q Washim 444 105 Appellant
PAN – AXGPM8924Q

v/s

Income Tax Officer
Ward-2, Akola Respondent

Assessee by : Shri Vinay Kawadiya
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 29/01/2025

Date of Order – 30/01/2025

ORDER

PER V. DURGA RAO, J.M.

These appeals by the assessee is emanating from the impugned orders of even date 28/02/2024, passed for A.Y. 2013-14, 2015-16, 2016-17 & 2017-18 and order dated 29/02/2024, passed for A.Y. 2014-15, by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*].

2. During the assessment proceedings, the assessee failed to explain the entire credit entries in the bank and accordingly the entire cash deposits worth ₹ 3,61,99,230, made by the assessee during the year 2016-17 were treated as unexplained money under section 69A of the Act which was added

to the total income of the assessee. Similar is the situation in other assessment years also.

3. Before the learned CIT(A), there was a delay of 177 days in filing the first appeal from the date of passing of order under section 147 r/w section 144 of the Act. The assessee explained the cause of delay which was rejected by the learned CIT(A) and while rejecting the condonation, he observed as under:-

"6. Thus, it is trite in law that the appellant must show that he was diligent in taking proper steps and the delay was caused notwithstanding his due diligence. It is for the appellant to explain the reason for the delay and it is not the function of authorities to find the cause for delay. The Appellate authority has to examine whether the sufficient cause has been shown by the appellant for condoning the delay and whether such cause is acceptable or not. Even though substantial justice should not be defeated by technicalities but that does not mean that any plea without any possible or acceptable basis and even without hearing, semblance or rationality has to be accepted and delay has to be accepted and condoned which shall be against the very spirit of law. The time prescribed for filing the appeal will become meaningless in such an event. Merely because substantial justice is to be done law of limitation cannot be ignored and that also when there is no sufficient and reasonable cause for such inordinate delay.

6.1. The appellant, in the present situation, appears to be guilty of laches or negligence and does not take appropriate steps to peruse the remedy till about 177 days and thus does not take appropriate action in filing the appeal within the prescribed time. In the light of the above discussion and considering the facts and, position of the law on this issue, I find that there is no sufficient cause for condoning the delay in the institution of appeal by the appellant and thus the application of the appellant for condonation of delay is hereby rejected.

6.2 Since the appeal is being dismissed on account of being filed beyond the period prescribed under the Act, therefore, I am not expressing any opinion on merit of the case.

6.3 The appeal of the appellant is dismissed for statistical purpose."

4. The learned CIT(A) dismissed the assessee's appeal without dealing with the issues raised by the assessee on merit.

5. Before us, the learned Authorised Representative for the assessee submitted that the learned CIT(A) did not condone the delay which resulted in dismissal of the appeals for all the years under consideration. He submitted that even the learned CIT(A) failed to adjudicate the issues raised on merits. He further submitted that even the Assessing Officer also did not adjudicate the issues raised on merits and the assessee is deprived of not granting proper opportunity to pursue its cases before the Assessing Officer and the learned CIT(A) also. Thus, the learned Authorised Representative prayed that the appeals for all the years under consideration be restored to the file of the Assessing Officer for adjudication on merits.

6. On the other hand, the learned D.R. submitted that despite the the Assessing Officer and the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee did not appear before the both the authorities below. The assessee even failed to furnish relevant details. He strongly supported the orders passed by the learned CIT(A).

7. **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 Assessing Officer and the learned CIT(A) granted opportunities to the assessee to substantiate its case, ultimately, the order passed by both the authorities are ex-parte order. Therefore, **we are** of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate its appeals for all the years under consideration before the Assessing Officer. In view of the above, the order passed by the learned CIT(A) is set aside and remit back the matter to the file of the

Assessing Officer and direct him to adjudicate the appeals 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 for all the assessment years under consideration in these appeal are allowed for statistical purposes.

8. In the result, appeals for A.Y. 2013-14, 2014-15, 2015-16, 2016-17 and 2017-18 filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 30/01/2025

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 30/01/2025

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