

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER**

**SMC MATTER**

**ITA no.408/Nag./2023**

**(Assessment Year : 2018-19)**

The Buldana Zilla Krishi Audogik  
Sahakari Sanstha Ltd.  
Behind T.V. Station  
Malkapur Road, Buldhana 443 001  
PAN – AAAAT3242N

..... Appellant

v/s

Income Tax Officer  
Ward-2, Khamgaon

..... Respondent

Assessee by : Shri Sanjay Thakar  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 06/01/2025

Date of Order – 27/01/2025

**ORDER**

This appeal by the assessee is against the impugned order dated 10/10/2022, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2018-19.

2. The assessee has raised following grounds:-

*"1) Learned C.I.T.(A) erred in dismissing Assessee's appeal for not appearing/filing submission before him.*

*2) Learned C.I.T.(A) erred in not giving proper opportunity to the Assessee.*

*3) Learned C.I.T.(A) erred in not consider Assessee's submission and various documents filed before A.O. at the time of assessment proceeding.*

4) Learned A.O. erred in determining the income at Rs.48,87,492/- as against income shown by the Assessee amounting to Rs.11,51,920/-.

5) Learned C.I.T.(A) erred in not allowing the deduction u/s.80P(2)(d)(e) of I.T. Act, 1961 claimed by the Appellant.

6) Learned C.I.T.(A) erred in not applying his mind properly.

7) Appellant craves to urge additional grounds at the time of hearing, if necessary."

3. During the course of hearing, the Registry has pointed out a delay of 371 days in filing the present appeal before the Tribunal. While going through the record available before me, I find that the assessee has filed an application dated 15/12/2023, for condonation of delay in filing this appeal which is also supported by an Affidavit dated 21/10/2024, which are placed on record requesting the Bench for condoning the delay in filing the present appeal. The reason for the delay in filing the appeal, as contained in the said application is as under:-

*"The impugned order dt.10.10.2022 u/s.143(3) of the I.T. Act, 1961 was passed by the C.I.T.(A) and uploaded on thee-filing profile of the Appellant on the same day. The Appeal against the same ought to have been filed on or before 09.12.2022, but the same is being filed today i.e. on 15.12.2023 Hence, there is a delay of 371 days in filing the said Appeal.*

*The Appellant has not much aware of modern technologies and not use to see email or any other electrical communication in day to day basis. The Appellant don't know whose email address they have provided and hence did not receive any notices or the impugned order. They were totally unaware that the impugned order was in fact passed and had been communicated the said order through email. Appellant came to know about the impugned order only at the time when its local counsel informed them about the impugned order passed by the CIT(A) and the huge demand raised by the CIT(A). The Appellant with the help of the local counsel immediately took print outs of the impugned order and approached the counsel at Nagpur to prepare and file the captioned Appeal.*

*Thereupon, the counsel hurriedly prepared the Appeal and is filing the same today without any further loss of time..*

*Under the above circumstances the delay was not attributable to the Appellant and therefore in the interest of justice delay in filing the present appeal, if any, may kindly be condoned. No prejudice is going to be cause to the Revenue, if delay is condoned and appeal will heard and decided on merits."*

4. After considering the submissions of the learned Authorised Representative and averments made in the affidavit, I am of the opinion that the assessee is prevented in filing the appeal belatedly and I am satisfied that the delay in filing the appeal is due to reasonable cause. Consequently, I condone the delay of 371 days in filing the present appeal and admit the same for adjudication on merit.

2. When this appeal is taken up for hearing, the learned A.R. appearing for the assessee submitted that the learned CIT(A) passed an ex-parte without giving proper opportunity of being heard to the assessee. He also stated that certain documents could not be filed before the learned CIT(A) and thus prayed that one opportunity may be granted by restoring the matter to the file of the learned CIT(A) to enable the assessee to substantiate its case 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. I have heard both the parties, perused the materials available on record and gone through orders of the authorities below. I find that though the learned CIT(A) granted opportunities to the assessee to substantiate its case,

ultimately, the order passed by him is an ex-parte order. Therefore, I am of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate the case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter 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 this appeal are allowed for statistical purposes.

4. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 27/01/2025

**NAGPUR, DATED: 27/01/2025**

**Sd/-  
V. DURGA RAO  
JUDICIAL MEMBER**

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