

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR "SMC" BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA.No.586/NAG./2024 [E-APPEAL]
Assessment Year 2017-2018

Nana Aatmaramsa Ujwane, Prop. Nana Ujawane Mandap and Decoration Contractor, RAMDASPETH. PIN - 444 001. PAN AAIPU2611H Maharashtra.	vs.	The Income Tax Officer, Ward-3, ITO Bldg., AKOLA - 444 001. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri K.P. Dewani, Advocate
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	28.01.2025
Date of Pronouncement :	04.02.2025

ORDER

PER V. DURGA RAO, J.M. :

This appeal has been filed by the assessee against the order dated 17.10.2024 of the learned Addl./JCIT(A), Udaipur, relating to assessment year 2017-2018.

2. Facts of the case, in brief, are that the assessee filed its return of income declaring income of Rs.11,58,740/-. The DCIT/CPC, Bengaluru determined the total income of the assessee at

Rs.35,46,520/- after allowing total deductions under Chapter-VIA of the Act vide its intimation dated 21.03.2019 u/sec.143(1) of the Act.

3. Aggrieved by the order of the DCIT, CPC, Bengaluru, the assessee carried the matter in appeal before the learned CIT(A) with a delay of more than 03 years duly explaining the reasons. However, the learned CIT(A) was not satisfied with the reasons furnished by the assessee and dismissed the appeal of the assessee by not condoning the delay.

4. Aggrieved by the order of the learned CIT(A), the assessee is in appeal before the Tribunal.

5. Learned Counsel for the Assessee, during the course of hearing, submitted that the DCIT/ CPC, Bengaluru erred in law in making adjustment of Rs.23,87,780/- in the intimation u/sec.143(1) which is beyond the scope of provisions of sec.143(1)(a) of the Act and thus the addition is not sustainable in the eye of law. He further submitted that the learned CIT(A) had dismissed the appeal of the assessee on the ground of delay without considering the reasons for the delay and had not decided the appeal on merits. He, accordingly submitted that the assessee has got fair chances to succeed in its appeal and prayed that one more opportunity may please be given to

the assessee by condoning the delay in filing the appeal before the learned CIT(A) in the interest of substantial justice.

6. The Learned DR on the other hand, relied on the orders of the lower authorities and strongly opposed for condonation of delay.

7. I have heard the arguments of both the sides and perused the material on record. I find that the learned CIT(A) has dismissed the appeal of assessee on the ground of delay but not decided the appeal on merits as contemplated u/sec.250(6) of the Act, according to which, the learned CIT(A) has to give reasons for decision and adjudication thereof. In this connection, I note that the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) has held that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. It has further been held that refusing to condone delay can result in a meritorious matter being thrown-out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties. In view of the above

decision of Hon'ble Supreme Court in the case of Collector, Land Acquisition vs., MST Katiji (supra) and considering the submission of the assessee and in the facts and circumstances of the case, I deem it fit and appropriate to condone the delay of more than 3 years in filing the appeal before the learned CIT(A) and direct the learned CIT(A) to decide the appeal on merits, by affording adequate opportunity of being heard to the assessee. Needless to say, it is the assessee's sole risk and responsibility to plead and prove his case in consequential proceedings by furnishing all the information as called for by the learned CIT(A). The learned CIT(A) is at liberty to decide the appeal on merits and as per fact and law, if the assessee did not respond to the notice(s) issued to him during the course of consequential proceedings. Accordingly, the grounds raised by the assessee are allowed for statistical purposes. I hold and direct accordingly.

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

Order pronounced in the open Court on 04.02.2025.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 04th February, 2025

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned
4.	The CIT, Nagpur concerned
5.	The D.R. ITAT, Nagpur SMC-Bench, Nagpur
6.	Guard File.

//By Order//

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Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.