

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.639/Nag./2024
(Assessment Year : 2015-16)

Bansi Diary Pvt. Ltd.
Near S.T. Stand, Opp. Kondhali Restaurant
Rambagh Road, Nagpur 440 018
PAN – AABCB6749F

..... Appellant

v/s

Income Tax Officer
Ward-4(1), Nagpur

..... Respondent

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

Date of Hearing – 03/02/2025

Date of Order – 10/02/2025

ORDER

The aforesaid appeal by the assessee is emanating from the impugned order dated 09/10/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2020-21.

2. During the course of hearing, the Registry has pointed out a delay of 271 days in filing the present appeal before the Tribunal. While going through the record available before us, I find that the assessee has filed application dated 26/12/2024, for condonation of delay which is also supported by Affidavit 26/12/2024, 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, are as under:–

"The above referred Appellant most respectfully submit as under :-

The above referred Appellant has received the Order of Addl/JCIT (A)-1, Kolkata dt.02.01.2024. The Appeal against the same ought to have been filed on or before 01.03.2024, but the same is being filed today i.e. on 26.12.2024. Hence, there is delay of 300 days in filing the said Appeal.

In this case the Appellant has filed the Appeal before CIT(A) on 05.02.2018 against the Order passed by A.O. - ITO Ward-4(1), Nagpur. The said Appeal has filed by the Appellant's Counsel and he has mentioned his email address on the appeal memos. The Appellant has not aware about any order passed by Appellant Authority. The Appellant has know about the Order passed by Addl/JCIT (A)-1, Kolkata only on I.T.O. Ward-4(1), Nagpur letter dt. 16.10.2024 for payment of outstanding disputed demand. The Appellant has enquire about the above said matter from his

Counsel but they have not given any satisfactory reason and handed over the file to Appellant.

The Appellant has approach the other Counsel for further action/filing of Appeal before ITAT. The Counsel has immediately prepare the Appeal along with Condonation of Delay Application and filed the same today.

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 be decided on merits.

PRAYER:

It is prayed that the delay of about 300 days in filing the present Appeal may kindly be condoned."

3. After considering the submissions of the learned Authorised Representative and averments made in the application for condonation of delay, 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 271 days in filing the present appeal and admit the same for adjudication on merit.

4. During the course of hearing, while going through the order of the authorities below, I find that the assessee did not appear before the Assessing Officer despite repetitive opportunities given by the Assessing Officer to enable the assessee to represent its case. However, the assessment order was passed ex-parte by making various additions. Even before the learned CIT(A) also, the assessee chose not appear which resulted in passing ex-parte order by dismissing the appeal filed by the assessee.

5. Before me, the learned Counsel appearing for the assessee submitted that the Assessing Officer and the learned CIT(A) passed an ex-parte order and prayed that one opportunity may be granted by restoring the matter to the file of the Assessing Officer to enable the assessee to substantiate its case before the the Assessing Officer.

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 Assessing Officer as well as before the learned CIT(A) and failed to 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 order of the authorities below. I 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 below were ex-parte orders. 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 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 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 10/02/2025

NAGPUR, DATED: 10/02/2025

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