



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

AND

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No.504/RJT/2023

Assessment Year: (2018-19)

(Hybrid Hearing)

Motavada Seva Sahkari Mandali Ltd. At: Motavada Taluka, Lodhika, Rajkot - 3600035	Vs.	The I.T.O., Ward-2(1)(2), Rajkot
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAAAM4084F		
(Assessee)		(Respondent)

Assessee by : Shri Vimal Desai, Ld. A.R.
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 06/11/2024
Date of Pronouncement : 11 /02/2025

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2018-19, is directed against the order passed by the Learned Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi [in short “the Ld. CIT(A)/NFAC”], dated 07.06.2024, which in turn arises out of an assessment order passed by Assessing Officer (in short ‘the AO-CPC’) u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), vide order dated 31.05.2019



2. At the outset, Learned Counsel for assessee submitted that there was delay in filing the appeal for 339 days, before Ld. CIT(A). The assessee filed the petition for condonation of delay before the Ld. CIT(A) and explained the sufficient cause for the delay, however, despite of this, the ld. CIT(A) did not condone the delay and dismiss the appeal of the assessee, without adjudicating the various issues, raised by the assessee, on merit. That is, the ld. CIT(A) did not adjudicate the assessee`s appeal, on merit. The Learned Counsel, therefore, prayed the Bench that delay may be condoned and matter, may be remitted back to the file of the ld. CITA for fresh adjudication, on merit.

3. On the other hand, Learned Sr. DR for revenue submitted that the assessee has failed to explain the sufficient cause for the delay, during the appellate proceedings. In order to advance substantial justice, though liberal approach, justice oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act. Therefore, ld. DR stated that the Ld. CIT(A), has rightly dismissed the appeal of the assessee.

4. We have considered the rival submissions and perused the relevant finding given in the impugned order of ld. CIT(A). We find that during the appellate proceedings, the assessee submitted the following reasons, for condonation of delay:

"The Appeal is related to assessment U/s 139(1)(a) made by C.P.C. No any intimation or copy of A.O is received by applicant. The applicant is residing at small Village and Staff of Society have no any technical awareness for email etc. The assessee come to know about assessment when demand notice and challan was received from applicable Jurisdiction Income Tax Officer. So we request to condone the delay in filling the Appeal. So delay in appeal, kindly consider and take for necessary process."



5. We note that where a case has been presented in the court beyond limitation, the assessee has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. However, in the assessee's case under consideration, the assessee was active and explained the sufficient cause stating that assessee was residing at a small Village and did not have any technical awareness for email etc. The assessee came to know about assessment order, when demand notice and challan was received from Jurisdictional Income Tax Officer. Then after, the assessee filed the appeal before the Id. CIT(A) immediate. Therefore, we find that explanation was provided by the assessee, which can be treated as a sufficient or good reason for condoning the delay of 339 days. A perusal of the reasons for condonation of delay, submitted by the assessee before the Id. CIT(A), gives us an impression of existence of mitigating circumstances to enable us to exercise our discretion in favour of the assessee. Accordingly, the delay is condoned before Id. CIT (A).

6. Since we have condoned the delay in filing the appeal, before Id. CIT(A), and also noted that Id. CIT(A) did not adjudicate the various grounds raised by the assessee, on merit. For the reasons given above, we are of the view that the order of the CIT(A) on this issue requires to be set aside and the various issues on merit, needs to be looked into afresh by the CIT(A) in the light of the observations as set out above. We hold and direct accordingly. The Ld. CIT(A) will afford opportunity of being heard to the assessee before deciding the issue. The assessee



will also be at liberty to let in further evidence to substantiate it's case. For statistical purpose, the appeal of the assessee is treated as allowed.

7. In the result, appeal of the assessee, is allowed for statistical purpose.

Order is pronounced in the open court on 11/02/2025

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER

Rajkot

दिनांक/ Date: 11/02/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot