

IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

I.T.A. No. 196 & 197/Ran/2023

(Assessment Year-2011-12 & 2012-13)

Nirmala Tulsyan, Chanchani Colony, Dhaiya, Dhanbad. PAN No. ABSPT 4986 F	Vs.	A.C.I.T., Circle-3, Ranchi.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	None
Department represented by	Shri Khubchand T. Pandya, Sr.DR
Date of hearing	03/02/2025
Date of pronouncement	18/02/2025

ORDER

PER: RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER:

1. Both these appeals by the assessee are directed against the separate orders of the National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals), [in short, the Id. CIT(A)] both dated 23/06/2023 for the Assessment Year (AY) 2011-12 and 2012-13 respectively as per the grounds of appeal on record. Both these appeals of the assessee are common facts and grounds, therefore, both these appeals are clubbed and heard together and being decided by this common order.
2. At the time of hearing, none has appeared on behalf of assessee, though, the notice of hearing have been duly served on the given address.
3. Submissions of the learned Senior Departmental Representative (Id. Sr.DR) for the revenue were recorded and the documents have been given careful consideration while the matter is taken as heard.

4. We find from perusal of record that there are delay of 15 days each in filing of both these appeals of the assessee before the Tribunal. Impugned order was passed by the Id. CIT(A) on 23/06/2023, however, these appeals are filed on 09/09/2023. The assessee has filed application for condonation of delay mentioning the fact that the assessee was out of station for long time for medical treatment due to which she could not file appeals within stipulated time period. The assessee stated that the delay in filing appeals are neither intentional nor deliberate. The delay is not inordinate. The assessee has good case on merit would suffer prejudice if delay is not condoned in her case and the appeals are not adjudicated on merit.
5. On merit of the case, the assessee submits that the Assessing Officer while passing the assessment order made addition on account of unexplained credit in her bank account. On appeal before the Id. CIT(A), no proper and reasonable opportunities were provided to the assessee and the appeals of assessee were dismissed by passing ex parte order. The assessee prayed to give one more opportunity and the matter may be restored back to the file of Id. CIT(A).
6. On the other hand, the learned Senior Departmental Representative (Id. Sr.DR) for the revenue submits that on the issue of condonation of delay, the Bench may take appropriate view in accordance with law. On merit of the case, the Id. Sr. DR for the revenue supported the orders of the lower authorities and stated that sufficient opportunities have already been provided to the assessee as evident from the order of the Id. CIT(A). The Id. Sr.DR, therefore, submitted that even before the Tribunal, neither the assessee has appeared nor any

application for adjournment has been given. Thus, the assessee does not deserve any leniency and additions made by the Assessing Officer may be upheld.

7. We have considered the submissions of the Id. Sr.DR for the revenue and the contents of application filed by the assessee. We have also gone through the orders of the lower authorities carefully. First we shall consider the plea of condonation of delay, we find that the impugned order was passed on 23/06/2023, however, the present appeals are filed on 09/09/2023, the system has calculated delay of 15 days each in filing both the appeals. As recorded above, the assessee submitted that due to medical treatment taken by the assessee, she could not file appeals within the time limit. Considering the fact that the delay is not inordinate and seems to be not intentional, therefore, delay of 15 days in filing both these appeals are condoned. Now adverting to the merit of the case.
8. We find that the Id. CIT(A) has passed *ex parte* order. The assessee was served with various notices to substantiate the various grounds of appeals raised before Id. CIT(A). However, no compliance was made by assessee. Accordingly, the Id. CIT(A), in absence of any submission or evidence, confirmed the addition. Now before us, again none has appeared to substantiate her case. It is correct that reasonable opportunities have been provided to the assessee, still, there was no compliance. The facts remain that the income tax laws are within the ambit of welfare legislation which are absolutely separate from penal legislation and therefore, given the facts and circumstances and as per applicable law, benefit of doubt has to be attributed

to the assessee/tax payer. There may be circumstances beyond the control of assessee or "vis major" because of which the assessee may not have able to comply with the notices before the revenue authorities. Under the given facts on record, which cannot be said that such non-compliance was deliberate or malafide on the part of assessee. Considering the facts and circumstances of the case and keeping in view the principles of natural justice, the matter is restored to the file of Id. CIT(A) for deciding the appeals afresh in accordance with law. Needless to direct that before passing the order, the Id. CIT(A) shall grant reasonable opportunity of being heard to the assessee. The assessee is also directed to avail this opportunity and not to cause further delay and seek adjournment without any valid reasons and to furnish all the details and evidences to justify various grounds of appeal raised by her. In the result, the grounds of appeal raised by the assessee are allowed for statistical purposes.

9. In the result, both these appeals of assessee are allowed for statistical purposes only.

Order announced in open court on 18th February, 2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Ranchi, Dated: 18/02/2025

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi