

**IN THE INCOME TAX APPELLATE TRIBUNAL
'SMC' BENCH: BANGALORE**

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER

ITA No. 2104/Bang/2024
Assessment Year: 2017-18

M/s Chithuvalli Duggegowda Bhavanishankar, Chithuvally Kelagur, Chikmagalur – 577111. PAN – AOMP B 5103 R	Vs.	The Income Tax Officer, Ward – 1, Chikkamagaluru-577101. NFAC, Delhi.
APPELLANT		RESPONDENT

Assessee by	:	Shri Hemanth, Advocate
Revenue by	:	Shri Ganesh R Ghale, Advocate – Standing Counsel for Revenue

Date of hearing	:	13.02.2025
Date of Pronouncement	:	20.02.2025

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi dated 23/10/2024 vide DIN No. ITBA/NFAC/S/250/2024-25/1069882364(1) for the assessment year 2017-18.

2. In the present case, the assessee was required to file the appeal before the learned CIT(A) under section 249(2) of the Act on or before 24-10-2019. However, the assessee filed the appeal on 31st January 2022, resulting in a delay of 830 days. The learned CIT(A), in his order,

observed that a major part of the delay in filing the appeal was attributable to the COVID-19 pandemic, except for a delay of 142 days. According to the learned CIT(A), the delay of 142 days was not explained by the assessee with supporting documents, except for a submission in Form 35 stating that **the appeal was delayed due to ill health and the COVID-19 pandemic**. As such, the learned CIT(A) was not satisfied with the assessee's submission, as it was not supported by any documentary evidence. Consequently, the learned CIT(A) dismissed the appeal of the assessee.

3. The learned AR, at the time of the hearing before us, fairly submitted that the assessee failed to comply with the notices issued by the learned CIT(A). However, the AR undertook the responsibility of ensuring necessary compliance if another opportunity is provided to represent the case before the AO as the assessment order was ex-parte to the assessee. Accordingly, the learned AR requested that the issue be set aside to the file of the AO.

4. On the other hand, the learned DR submitted that the time limit for filing the appeal had expired much before the COVID-19 pandemic, and therefore, the assessee should not be granted the benefit of the pandemic as a reason for the delay. Additionally, the learned DR contended that the assessee had been negligent in his approach, and hence, the delay should not be condoned without imposing a cost.

5. We have heard the rival contentions of both parties and perused the materials available on record. After carefully reviewing the facts and circumstances, we find that the COVID-19 pandemic played a significant

role in the delay, though it did not fully justify the entire period of non-compliance. Nevertheless, to balance the justice and to ensure that the assessee gets a fair opportunity, we condone the delay in filing the appeal before the Id. CIT-A. However, on account of the unexplained delay of 142 days satisfactorily, we impose a nominal cost of Rs. 500, payable to the Income Tax Department. Accordingly, we condone the delay subject to the payment of a nominal cost, allowing the assessee another chance to present his case before the learned AO as the assessment order was exparte. Hence, the ground of appeal of the assessee is partly allowed for statistical purposes.

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

Order pronounced in court on 20th day of February, 2025

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 20th February, 2025
/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore