

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.515 and 516/Nag./2024
(Assessment Year : 2017-18)

Ashish Keshav Ukey
FF-2, Shahas Apartments
WHC Road, Bajaj Nagar Square
Nagpur 440 010 PAN – AAOPU7596

..... Appellant

v/s

Income Tax Officer
Ward-1(5), Nagpur

..... Respondent

Assessee by : Shri Abhishek Kumar
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 04/02/2025

Date of Order – 25/02/2025

ORDER

PER V. DURGA RAO, J.M.

These appeals by the assessee are against the common impugned order dated 26/06/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2017-18.

2. During the course of hearing, the Registry has pointed out a delay of 29 days in filing the present appeals before the Tribunal. While going through the record available before us, we find that the assessee has even not bothered to file any application for condonation of delay supported by duly sworn affidavit. It is more surprising to note that there was even delay in filing first

appeal before the learned CIT(A). Before the learned CIT(A) also, the assessee did not file any application for condonation of delay. Leave aside this, the assessee even chose not to appear before the learned CIT(A) despite several statutory notices issued by the learned CIT(A). The non-compliant attitude of the assessee has to be taken a serious note. Due to lackadaisical approach in the proceedings, the learned CIT(A) passed ex-parte order and dismissed the appeal filed by the assessee being time barred. Under these circumstances, we are 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 learned CIT(A), since the impugned order passed by the learned CIT(A) is an ex-parte order. In view of the above, the ex-parte order passed by the learned CIT(A) is hereby set aside and remit the matter back to the file of the learned CIT(A) 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. The assessee is also directed to file before the learned CIT(A) an application for condonation of delay duly supported by a sworn Affidavit on the basis of which the learned CIT(A) is left on his own discretion to decide the condonation application on merits and then proceed to adjudicate the appeal on merit, if so deem fit keeping in view the facts and circumstances of the case. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

3. Insofar as non-appearance of the assessee before the authorities below are concerned, the primary onus lies on the assessee to co-operate in the proceedings before the learned CIT(A) and the Assessing Officer. In case, the assessee does not do so, the assessee deserves to be penalized and hence we feel that the penalty has to be imposed upon the assessee and the same should be commensurate to the default committed by him. As a result of non-compliance and procedural delays, we deem it fit and appropriate to impose a cost upon the assessee for an amount of ₹ 5,000 (Rupees Five Thousand Only) for each appeal aggregating to ₹ 10,000 (Rupees Ten Thousand Only) payable to the Maharashtra State Legal Services Authority and adduce evidence of payment before the learned CIT(A). This cost underscores the importance of adhering to the procedural requirements and timely compliance during assessment and appellate proceedings.

4. In the result, appeals by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 25/02/2025

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 25/02/2025

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