

**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.510/Nag./2024**  
(Assessment Year : 2016-17)

Sangeet Ashokrao Chavan  
58, Shivaji Nagar  
201, Padmasani Apartment  
Shankar Nagar, Nagpur 440 010  
PAN – AAHPC8566E

..... Appellant

v/s

Dy. Commissioner of Income Tax  
Circle-1, Nagpur

..... Respondent

Assessee by : Shri Kapil Hirani  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 13/02/2025

Date of Order – 25/02/2025

**ORDER**

**PER V. DURGA RAO, J.M.**

Aforesaid appeal by the assessee is against the impugned order dated 15/09/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“*learned CIT(A)*”], for the assessment year 2016-17.

2. There is a delay of 28 days in filing the present appeal by the assessee. Before us, the assessee has furnished application-cum-affidavit dated 16/09/2024, duly sworn seeking condonation of delay in filing the present appeal before the Tribunal. The contents of the application-cum-affidavit explaining delay are extracted below for ready reference:-

*"2. That I had preferred an appeal for AY 2016-17, before the Ld. CIT (Appeals) against order passed by the Assessing Officer dated 29.3.2022.*

*3. The entire proceedings before the Hon'ble CIT(A) having been conducted online on the portal of income tax department, the notices were never properly served as all the notices were allegedly and apparently served online and the email id on the website was not valid. Further, I am not very well versed with computers and online procedures and as such was unaware that such notices were being issued.*

*4. It was only recently when the recovery proceedings were initiated against me and my bank accounts were attached that I came to know that the Ld. CIT (Appeals) adjudicated my appeal ex-parte vide order dated 15.9.2023, the fact of which, as mentioned above, I was unaware of as the entire proceeding was conducted online and in a faceless manner.*

*5. I immediately sought legal opinion on the same and have accordingly preferred the present appeal before the Hon'ble ITAT.*

*6. The impugned appeal is thus delayed on account of the reasons mentioned hereinabove which constitute reasonable cause and the delay cannot be deemed to be willful nor unreasonable. The delay deserves to be condoned and the appeal deserves to be admitted and heard in the interest of justice.*

*7. I submit that I have not benefitted in any way from the delayed filing of the appeal and that irreparable loss will be caused to me if the delay is not condoned and the appeal is not admitted.*

*8. No hardship or prejudice will be caused to the Respondent in case the delay is condoned and the appeal is admitted, however if the delay is not condoned and the appeal is not admitted, I will suffer substantially and irreparable loss will be caused.*

*9. In light of the above facts and in the interest of natural justice I pray before your honours to kindly condone the delay in filing of the appeal, admit the appeal and hear the appeal on merits in the interest of natural justice.*

*10. I have gone through the contents of paragraphs 1 to 9 herein above and say that they are believed by me to be true."*

3. After considering the submissions of the learned Counsel for the assessee and averments made in the affidavit, we are of the opinion that the assessee is prevented in filing the appeal belatedly and we are satisfied that the delay in filing the appeal is due to reasonable cause. Consequently, we condone the delay of 28 days in filing the present appeal and admit the same.

4. The assessee did not appear before the Assessing Officer during the assessment proceedings which is evident from the assessment order passed by the Assessing Officer, the relevant conclusion drawn are as under:-

*"13. The show cause notice communicating the proposed variation was issued to the assessee vide SCN letter dated 25.03.2022 and the assessee was asked to show cause as to why assessment should not be completed as per proposed disallowance/addition as discussed above. The assessee was requested to file his objections/replies to the proposed variations by 27.03.2022. The assessee was also intimated that if he desires he can request for personal hearing to make oral submission through video conferencing button. However, neither any response nor any personal hearing was sought by the assessee on or before the date fixed for compliance which shows that assessee has no explanation to offer. Accordingly, income of the assessee is being assessed as proposed in the draft assessment order."*

The Assessing Officer determined the total assessed income of ₹ 2,18,02,753.

5. On appeal, even before the learned CIT(A) also, during the first appellate proceedings, despite issuance of statutory notices, the assessee chose not appear in the proceedings. The learned CIT(A) dismissed the assessee's appeal ex-parte by holding as under:-

*"7.7 In view of the discussion in the preceding paragraphs, I am constrained to concur with the AO's findings of fact and decisions thereof, more particularly in the absence of any meaningful and worthwhile submissions/documentations even during the instant appellate proceedings, to counter effectively the position adopted by the AO on the concerned issues and reduced in writing in the assessment order. It is trite that an appellate authority is essentially called upon to balance the two sides of an argument presented before him as held in Nirmal Singh and Others of the Hon'ble Punjab and Haryana High Court [Cr No. 3791 of 2013 (O&M) dated 01.05.2014] and in the absence of any reasonable, cogent and valid arguments/contentions advanced by the appellant in the instant appeal to counter the AO's decision, the order passed u/s 147 r.w.s. 144B of the Act dated 29.03.2022 is upheld."*

6. Before us, during the course of hearing, learned Counsel, Shri Hirani, appearing for the assessee, admitting the lapse on the part of the assessee for not responding to the explanation sought by the authorities below. However, he pleaded that if this Court grants the assessee one opportunity by restoring this appeal to the file of the learned Jurisdictional Assessing Officer, so that the assessee is able to substantiate its case before the Jurisdictional Assessing Officer. Therefore, he prayed that the appeal be restored to the file of the Jurisdictional Assessing Officer.

7. 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 learned CIT(A) and not furnished relevant details. He strongly supported the orders passed by the learned CIT(A).

8. We have heard both the learned Counsel appearing for the parties, perused the materials available on record and gone through orders of the authorities below. We find that though the authorities below have granted several opportunities to the assessee to substantiate its case, ultimately, the order passed by him is an ex-parte order. Therefore, 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 Jurisdictional Assessing Officer. In view of the above, the impugned order passed by the learned CIT(A) is set aside and remit the back matter to the file of the Jurisdictional 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.

9. In the result, appeal by the assessee stands allowed, but only 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