



**IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, PANAJI**



**BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**AND**

**SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**

**ITA Nos. 269/PAN/2024**

**Assessment Year : 2019-20**

Ecoslag Cements And Additives Pvt. Ltd.

D.No. V5-1-T-49/12,

Ramakrishna Shopping Compound,

Mahesh PU College Road, Bengaluru

PAN : AACCE2303F

..... *Appellant*

V/s

Jt. Commissioner of Income Tax,

Panaji, Goa.

..... *Respondent*

**Appearances**

Assessee by : Mr V Sriram Rao ['Ld. AR']

Revenue by : Smt Nazeera Mohammad ['Ld. DR']

सुनवाई की तारीख / Date of conclusive Hearing : 11/03/2025

घोषणा की तारीख / Date of Pronouncement : 12/03/2025

**ORDER**

**PER G. D. PADMAHSHALI;**

The captioned appeal of the assessee impugns DIN & Order ITBA/NFAC/S/250/2024-25/1068333198(1) dt. 04/09/2024 passed by the National Faceless Appeal Centre, Delhi ['Ld. NFAC' hereinafter] u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] which in turn arisen out of order of penalty dt. 30/08/2022 passed u/s 271C of the Act by the Jt. CIT, Panaji ['Ld. AO' hereinafter] anent to assessment year 2019-20 ['AY' hereinafter].



2. Without touching merits of the case we have heard the rival party's submission and subject to rule 18 of ITAT-Rules 1963 perused material placed on record.

3. We note that, order of penalty in this case was passed on 30/08/2022 and was received by the appellant on 13/09/2022. The appeal thereagainst u/s 246A of the Act was filed before the Ld. NFAC on 13/10/2022. The Ld. NFAC however dismissed the said appeal *in limine* on the ground that appeal was time barred 1 day and the appeal was neither accompanied therewith a petition for condonation nor an affidavit stating therein circumstance due to which a delay of 1 day was occurred. Faced with the situation, the assessee came in present appeal for violation of natural justice.

4. The assessee received the impugned penalty order on 13/09/2024 and was under obligation to file an appeal within 30 days therefrom in terms of s/s (2) to section 249 of the Act. Substantively the time period available for filing appeal for the appellant was by 14/10/2024, whereas the appeal before Ld.



NFAC u/s 246A of the Act was filed on 13/10/2024. Thus the appeal was filed well within the prescribed time limit without there being any delay. However without vouching the same Ld. NFAC through oversight dismissed the appeal in limine on the ground of limitation, which is unsustainable in law, hence deserves to be set-aside for its remand to the file of Ld. NFAC.

5. In our view, the appellate remedy or forum is created by the statute is to rest the dispute and not to accelerate for higher forum perfunctorily. Having regard to present facts and circumstances, placing reliance on recent judgement of Hon'ble Supreme Court rendered in '*Raheem Shah & ANR Vs Govind Singh & Ors*' [CIVIL APPEAL NO.4628 OF 2023], we are heedful to state that, while dealing with tax litigation, the Ld. NFAC being a quasi-judicial authority was expected to adopt justice oriented approach rather resorting to iron-cast technical one wherein the Ld. NFAC came to dismiss the appeal of the appellant *in limine* on a hyper-technical ground without even according a fair opportunity of hearing.



**6.** In view of this, without offering any comments on merits of the case, we set-aside the impugned order and remit the file of Ld. NFAC at the stage of its institution with a direction to admit the appeal as filed within the time limit allowed u/s 249(2) of the Act and deal therewith *de-novo* on merits in accordance with applicable law and pass a speaking order in terms of section 250(6) of the Act.

**7. The appeal in result stands allowed for statistical purposes.**

In terms of rule 34 of ITAT Rules, 1963 the order pronounced in the open court on date mentioned herein before.

**-S/d-**  
**PAVAN KUMAR GADALE**  
**JUDICIAL MEMBER**

**-S/d-**  
**G. D. PADMAHSHALI**  
**ACCOUNTANT MEMBER**

Panaji/Dt: 13<sup>th</sup> March, 2025.

**Copy of the Order forwarded to :**

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|-------------------|-----------------------------------|------------------------------|
| 1. The Appellant. | 2. The Respondent.                | 3. The CIT(A)/NFAC Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Panaji | 6. Guard File                |

By Order,  
Sr. Private Secretary / AR ITAT, Panaji.