

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1214/SRT/2024

Assessment Year: (2020-21)

(Physical hearing)

Vaheval Milk Producer Co-Operative Society Ltd., PO - Vaheval, Taluka - Mahuva, Surat – 394248.	Vs.	The DCIT, Circle - 2(1)(1), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAABV0106E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Appellant by	Shri Suresh K. Kabra, CA
राजस्व की ओर से /Respondent by	Shri Mukesh Jain, Sr. DR
सुनवाई की तारीख/Date of Hearing	18/02/2025
उद्घोषणा की तारीख/Date of Pronouncement	30/04/2025

आदेश / O R D E R

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 03.10.2024 by the National Faceless Appeal Centre, Delhi/Commissioner of Income-tax (Appeals) [in short 'Ld. CIT(A)'] for the Assessment Year (AY) 2020-21.

2. Grounds of appeal raised by the assessee are as under:

"1. The Ld. CIT(A), NFAC has erred and was not just and proper on the facts of the case and in law in considering the appeal as delayed and not admitting the same/not condoning the delay.

2. Prayer:

2.1 The appeal may be directed to be admitted for consideration and delay if any may be directed to be condoned.

2.2 Personal hearing may be granted.

2.3 Any other relief that your honours may deem fit may be granted.

3. The assessee craves leave to add, amend, modify alter or delete any of the grounds at the time of hearing.”

3. The facts of the case in brief are that the assessee is a co-operative society and it filed the return of income on 11.11.2020, declaring total income of Rs.13,020/-. The case was selected for scrutiny and after providing various opportunities including show cause notice on 15.09.2022, the case was assessed u/s 143(3) r.w.s. 144B of the Act on 23.09.2022, determining total income at Rs.10,31,059/- by disallowing deduction of interest of Rs.10,18,039/- u/s 80P(d) of the Act.

4. Aggrieved by the order of AO, the assessee filed this appeal before the CIT(A) on 20.04.2023. The CIT(A) observed that assessment order was passed on 23.09.2022 and therefore, appeal should have been filed by 22.10.2022. However, the appeal was filed on 20.04.2023 after a delay of 6 months. He observed that appellant has neither mentioned the delay in Form No.35 nor filed any affidavit in this regard. On the other hand, appellant has mentioned “No” in column No.14 regarding delay in filing appeal. He held that there was no sufficient cause for such delay. Hence, conditions laid down u/s 249(3) of the Act are not fulfilled and there is no sufficient cause for the delay in filing the appeal. Accordingly, he dismissed the appeal.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the

assessee filed a small paper book incorporating grievance made in the Income Tax portal and submitted that in Form No.35, at column no.11, the assessee had stated as follows: *“So computation sheet was uploaded but assessment order was not. Grievance made at e-proceeding portal for non-availability of assessment order on 21/03/2023. Then assessment order was available at E-proceeding portal.”* He submitted that the reasons for the delay was mentioned at para 11 of the statement of facts. He submitted that the assessment order was not uploaded even on 21.03.2023. As soon as the same was uploaded, copy of the assessment order was downloaded and appeal was filed on 20.04.2022, which was within the time permissible u/s 249(3) of the Act. He fairly admitted that in the column no.14, it was submitted that there was no delay in filing appeal. However, the same was an inadvertent mistake because the reasons for delay had already been mentioned in the statement of facts. He requested that another opportunity may be given to the assessee in the interest of justice.

6. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) of the revenue submitted that the Bench may decide the matter as deemed proper.

7. We have heard both the parties and perused the materials available on record. The CIT(A) did not condone the delay by stating that no reason whatsoever was given by the appellant for delay in filing

appeal. Since the appeal was dismissed at the threshold, no findings or decision was given on the merits of the case. The Id. AR submitted that the CIT(A) has not considered the reasons given by the assessee for delay in filing the appeal. He submitted that in Form No.35, the assessee, at column no.11, has duly mentioned that the assessment order was not uploaded even on 21.03.2023. Therefore, the delay was neither deliberate nor intentional. It was beyond the control of the appellant. After receipt of the order, appellant has filed the appeal within the time allowed u/s 249(2) of the Act. We find that the CIT(A) has not considered the above request of the assessee to condone the delay by stating that assessee had not filed any affidavit or made any submission for condonation of delay. Perusal of the facts mentioned above reveals that the assessee had in fact given the reasons for delay in filing appeal. The reasons given was not at all considered by the CIT(A). Therefore, we deem it proper to set aside the order of CIT(A) and restore the matter to his file to consider the reasons for condonation of delay. The CIT(A) may seek further clarification or details if it is warranted. If he is satisfied that appellant had sufficient cause for not presenting the appeal within the meaning of section 249(3) of the Act, he may admit the appeal and decide the case on merit. For statistical purpose, the appeal of the assessee is allowed.

8. In the result, appeal of the assessee is allowed for statistical purpose.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 30/04/2025.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat

दिनांक/ Date: 30/04/2025

SAMANTA

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

// TRUE COPY //

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat