

IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 213/GTY/2024
Assessment Year 2018-19

Mahabhairav Auto LLP,

Ashok Motors, Main Road,

Assam - 784001

[PAN: AAZFA7611E]

.....**Appellant**

vs.

DCIT/ACIT, Cir-1, Guwahati,

Christian Basti, Assam - 781005

..... **Respondent**

Appearances by:

Assessee represented by

: P.C. Bothra, Advocate

Department represented by

: Soumendu Sekhar Das, JCIT

Date of concluding the hearing

: 22.04.2025

Date of pronouncing the order

: 23.04.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. The present appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereinafter “the Act”), passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter the Ld. CIT(A)] vide order dated 29.08.2024 for AY 2018-19.

1.1 In this case, several additions were made by the Learned Assessing Officer in a more or less exparte manner.

1.2 The additions made by the Ld. AO were agitated before the Ld. CIT(A) where the assessee could not succeed mainly on the ground that there was a delay of 144 days in filing of the first appeal, which was not

condoned. It is seen that the Ld. CIT(A) has recorded a detailed finding as to why he has chosen not to condone the said delay. Thus, evidently the appeal has not been adjudicated on merit.

2. Aggrieved with this action of the Ld. CIT(A), the assessee has approached the ITAT with the main grounds ventilating the grievance of non-condonation of delay.

2.1 Before us, the Ld. AR relied on the case in MA No 21 of 2022 in MA No 665 of 2021 in Suo Motu Writ Petition (C) No 3 of 2020...It was pointed out that the Hon'ble Supreme Court had relaxed the limitation period on account of COVID-19. It was averred that the Ld. CIT(A) was certainly not aware of this judgment and had refused to condone the said delay in filing of the said appeal. Eventually, the Ld. AR requested for restoring the matter back to the file of Ld. CIT(A) for adjudication on merits.

2.2 The Ld. DR relied on the orders of authorities below.

3. We have carefully considered the records before us and also gone through the case law relied upon by the Ld. AR to canvass the point that during the extraordinary situation arising due to the COVID-19 Pandemic, the Hon'ble Supreme Court had extended the limitation period. While there can be any doubt about the binding nature of the Hon'ble Apex Court order (supra), it is also a fact that the appellate authorities must sparingly not condone the delays in filing of appeals. In the interest of substantive justice, the delays in filing of appeals normally deserve to be condoned, barring exceptional circumstances. In this case, we find that the assessee deserves another chance to present the facts before the Ld. CIT(A) and hence, we condone the delay in filing of first appeal and remand this matter back to the file of Ld. CIT(A) for fresh adjudication. Needless to say, the Ld. CIT(A) would give adequate opportunity of being heard to the assessee.

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

Order pronounced on 23.04.2025

Sd/-

[Manomohan Das]
Judicial Member

Dated: 23.04.2025

AK, PS

Sd/-

[Sanjay Awasthi]
Accountant Member

Copy of the order forwarded to:

1. Mahabhairav Auto LLP
2. DCIT/ACIT, Cir-1, Guwahati
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches