

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.164/RPR/2025
निर्धारण वर्ष / Assessment Year : 2014-15

Shishu Kalyan Shikkha Samiti
Panchsheel Nagar, Mahasamund,
Chhattisgarh-493 445
PAN: AANTS0821N

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Exemption Ward, Raipur (C.G)

.....प्रत्यर्थी / Respondent

Assessee by : Mrs. Dimple Warlyani, CA
Shri Bikram Jain, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 06.05.2025
घोषणा की तारीख / Date of Pronouncement : 07.05.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM:**

This appeal preferred by the assessee emanates from the order of the Ld. CIT(Appeals)/NFAC, Delhi dated 25.01.2025 for the assessment year 2014-15 as per the grounds of appeal on record.

2. At the very outset, it is noted that the Ld. CIT(Appeals)/NFAC had not condoned the delay of 6 days in filing of the appeal before him. That as evident from Para 2 of the order of the Ld. CIT(Appeals)/NFAC, it was explained by the assessee that it is a charitable trust and the primary object is to provide education through Hindi Medium School for under privileged children. The said charitable trust is located at Mahasamund which is small town where the staff are not conversant with the usage of Income Tax portal as well as emails. This is the reason for which the delay of 6 days occurred in filing the appeal before the Ld. CIT(Appeals)/NFAC. That as evident from Para 4 of the order of the Ld. CIT(Appeals)/NFAC, it had dismissed the appeal in limine on the ground of delay itself by holding that the statement of the assessee is not backed by any cogent tenable evidence and are mere assertions.

3. That in so far the facts of the case are concerned, the penalty has been levied as per order u/s.272A(2)(e) of the Income Tax Act, 1961 (for short 'the Act') vide order dated 16.03.2022 for the reason that the

assessee was found in default for not filing return of income on or before the due date as required u/s.139(4C) of the Act. Also, the assessee could not satisfactorily explain as to why the penalty u/s.272A(2)(e) of the Act may not be imposed in its case.

4. Having considered the entire factual matrix and submissions of the parties herein, we are of the considered view that first of all there is meagre delay of 6 days which has been explained by the assessee before the Ld. CIT(Appeals)/NFAC. The Ld. CIT(Appeals)/NFAC had blatantly and summarily dismissed the appeal while not condoning the delay in limine without going into the merits of the case and by stating that no evidence were filed by the assessee in support of its contention but the fact of the matter remains that the Ld. CIT(Appeals)/NFAC also while not condoning the said delay of 6 days has not adhered to mandate of Section 250(4) and (6) of the Act and thereby, has not conducted any further inquiry while arriving at its decision. Taking guidance from the judgment of the Hon'ble **Supreme Court in the cases of Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025 and Inder Singh Vs. the State of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21st March, 2025,** wherein it has been held that a justice oriented and liberal approach ought

to be adopted while considering the aspect of condoning the delay involved in filing of the appeal, we condone the delay of 6 days in filing of the appeal before the Ld. CIT(Appeals)/NFAC and remand the matter back to its file for denovo adjudication on merits.

5. That while dealing with the issue of penalty u/s.272A(2)(e) of the Act, the Ld. CIT(Appeals)/NFAC may look into that as claimed by the assessee since they are having exemption u/s. 10(23C)(iiiad) of the Act, therefore, they are not supposed to file return of income, whether this claim is tenable as per law. That as per record, the assessee had put the blame on the department for issuing notice after 8 years rather than explaining the reasonable cause that why such penalty should not be levied on the assessee. Therefore, the assessee shall also explain as to why the said penalty should not be levied with reasons and evidences before the Ld. CIT(Appeals)/NFAC. Needless to say, the Ld. CIT(Appeals)/NFAC shall follow the principles of natural justice while adjudicating the matter.

6. As per above terms, the grounds of appeal raised by the assessee stands allowed for statistical purposes.

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

Order pronounced in the open court on 7th May, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 7th May, 2025.

***SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.