

**IN INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE**

**BEFORE SHRI. LAXMI PRASAD SAHU, ACCOUNTANT MEMBER  
AND SHRI. SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No.275/Bang/2025
Assessment Year :2021-22

M/s. Supermarket Grocery Supplies Pvt. Ltd., Fairway Business Park, Survey No.10/1, 11/2, 12/2B Behind Dell, Challaghatta Village, Domlur, Bangalore North Bangalore Domlur S.O 560 071, Karnataka. <b>PAN :AAQCS 4503 H</b>	Vs.	ITO, Ward – 6(1)(1), Bengaluru.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri. Akshay, CA
Revenue by	:	Shri.Muthu Shankar, CIT(DR)(ITAT), Bangalore.

Date of hearing	:	03.06.2025
Date of Pronouncement	:	09.06.2025

**ORDER**

***Per Laxmi Prasad Sahu, Accountant Member :***

This appeal filed by the assessee against the Order passed by the learned CIT(A) dated 17/12/2024 on the following grounds of appeal:

1. *That on the facts and circumstances of the case and in law, the ld. CIT(A) erred in not condoning the delay in filing the appeal before it and dismissing it at the threshold.*
2. *That on the facts and circumstances of the case and in law, the order passed by the ld.CIT(A) is in violation of the principles of natural justice in as much as an opportunity of hearing was not granted to the assessee before dismissing its appeal.*

3. *That on the facts and circumstances of the case and in law, the ld. CIT(A) ought to have deleted the addition on merits inter alia on account of the fact that if the GST collected is considered as income, the corresponding payment thereof ought to be considered an expense leaving no scope for any addition.*
4. *Each of the above grounds are mutually exclusive, independent and without prejudice to each other.*
5. *The appellant craves leave to add, amend, alter, omit or substitute any of the grounds of appeal at any stage before the appeal is finally heard or adjudicated upon.*

2. Briefly stated, the facts of the case are that the assessee is engaged in the business of trading of fruits and vegetables, grocery and other house hold products, filed its return of income on 15.03.2022 declaring current year loss of Rs.308,48,84,692/-. While processing the return under section 143(1)(a) of the Act dated 22.09.2022, there was variation of Rs.658,19,86,394/-. As a consequence, the returned loss was converted into income of Rs.337,96,04,509/- . resultantly, there is a tax demand of Rs.119,83,95,460/-. Assessee filed appeal before the learned CIT(A) on 17.12.2024 with a delay stating that appellant had filed rectification application under section 154 of the Act and the case was selected for scrutiny since the proceedings got completed and no effect has been given to the errors appearing from record while issuing notice under section 143(1) of the Act and assessee was in consciousness that the assessee's rectification application shall be accepted. The learned CIT(A) did not condone the delay. Assessee was asked to explain the delay by each day as per the notice issued under section 250 of the Act, but the assessee had no reasonable cause. Accordingly, delay was not condoned.

3. Aggrieved from the above Order, assessee filed appeal before the ITAT. The learned Counsel submitted tha the learned CIT(A) has not considered the reasons given for delay in fling the appeal. Due to oversight, while filing return of income, wrong figure was entered in the appropriate return colum. Therefore, the loss claimed by the assessee was converted into income. However, the

assessee filed rectification application under section 154 of the Act which is still pending. The case was selected for scrutiny proceedings and the additions made under section 143(1)(a) of the Act has been considered while calculating assessed income under section 143(3) of the Act and the assessee has filed appeal against 143(3) of the Act Order on 07.01.2025 and registered as Appeal No. NFAC/2020-21/10311472 with DIN ITBA/NFAC/F/APL/\_ 1/2024-25/1071934897(1) . and after filing of application under section 154 of the Act, assessee was in hope that he will succeed. Therefore the assessee had reasonable cause for not filling appeal within time before the ld. CIT (A) and delay may be condoned at the level of CIT (A) and the case may be sent back to ld. CIT (A) for a fresh adjudication..

4. On the other hand, learned DR relied on the Order of the lower authorities and submitted that the assessee has filed appeal against intimation under section 143(1) of the Act. Once the case is taken up for scrutiny and the income computed under section 143(1) of the Act has got merged in Assessment Order under section 143(3) of the Act.

5. Considering the rival submissions, we noted that the assessee has filed return of income claiming loss. However, while processing the return of income, the loss has been converted into income and huge addition has been made while processing the return. Assessee has filed rectification application under section 154 of the Act on 30.11.2024 against the intimation passed by the CPC under section 143(1)(a) of the Act . The case has been taken up for scrutiny by issue of notice under section 143(2) of the Act. The learned CIT(A) ought to have considered the delay and the appeal should have been decided on merits. Since the assessee has filed appeal against the Order under section 143(3) of the Act before the CIT(A) noted supra. which is still pending for adjudication and the income determined under section 143(1)(a) of the Act has already been considered while passing Order under section 143(3) of the Act. Therefore,

considering the facts of the case and in the interest of justice, we are remitting issue to the CIT(A) to adjudicate together both Appeals together and pass a common order and CIT(A) is directed to give reasonable opportunity of being heard to the assessee. The assessee is further directed to comply the notices issued by Id. CIT(A) and not to seek unnecessary adjournments for early disposal of the case.

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

*Pronounced in the court on the date mentioned on the caption page.*

Sd/-

**(SOUNDARARAJAN K)**  
**Judicial Member**

Sd/-

**(LAXMI PRASAD SAHU)**  
**Accountant Member**

Bangalore,  
Dated : 09.06.2025.  
/NS/\*

Copy to:

1. Appellant 2. Respondent 3. Pr.CIT4.CIT(A)  
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.