

IN THE INCOME TAX APPELLATE TRIBUNAL PATNA BENCH, PATNA

**BEFORE SHRI DUVVURU RL REDDY, VP
AND
SHRI SANJAY AWASTHI, AM**

**ITA Nos. 270 & 271/PAT/2024
(Assessment Years: 2012-13 & 2013-14)**

**Eastern Food Industries Pvt.
Ltd.**

M-3/32, S.K. Puri
Near Basawan Park,
Bihar-800001

(Appellant)

Vs.

**ITO Ward 2(1),
Patna, Bihar**

(Respondent)

PAN No. AAACE8383R

Assessee by : Shri D.V. Pathy, AR
Revenue by : Shri Ashwani Kr. Singal, DR

Date of hearing: 20.05.2025
Date of pronouncement : 13.06.2025

ORDER

Per Duvvuru RL Reddy, VP:

These are appeals preferred by the assessee against the order of the Commissioner of Income-tax (Appeals)-1, patna (hereinafter referred to as the "Ld. CIT(A)"] dated 10.05.2018 & 22.08.2017 for the AY 2012-13 & 2013-14.

02. It appears from the report of the registry that the appeal has been filed after a delay of 1810 days in A.Y. 2012-13 and 2286 days in A.Y. 2013-14 for these the assessee has filed condonation petitions. Condonation petition for A.Y. 2012-13 read as under: -

"1. That this is an application for condonation of delay in the filing of the present appeal.

2. That the appellant states that the order in appeal was passed on 10.05.2018. The appellant as per the provisions of the Act was required to file the appeal within a period of 60 days therefrom. Thus, there is a delay of approx. 5 years 6 month.

3. The appellant may at the outset state that its Managing Director Shri. JP Singh on account of his octogenarian age handed over charge to Mr. Ravi Shashi who was mercilessly murdered on 23.03.2014. Unfortunately, enough the other director also died on 29.12.2014. In yet another unfortunate incident the son of the Chairman of the company also died on 23.07.2017 in a road accident.

4. That the appellant states that in a precarious state of condition it was all in ruins and shattered and the manufacturing activity was closed since 2016 leave alone sale of some closing stock.

5. That the appellant states that at the time the notices were issued by the learned Commissioner of Income Tax (Appeal) National Faceless Appeal Centre Delhi its business activity was closed and that it had not received any notice on the email ID or through any other mode of service is provided under the Act. The appellant thus was wholly unaware of the order in appeal having been passed.

6. That the appellant now thought of reviving the manufacturing unit with the aid of borrowings from financial institution et cetera. The appellant in the process learnt on 15.09.2023 that an ex parte order in appeal was passed confirming the notice of demand issued by the learned assessing officer. The appellant thereafter, approached its counsel for seeking remedies as provided under the law. The said counsel advised filing of appeal along with a petition for condonation of delay.

7. That the appellant states that apart from the fact that it did not received any notice in the faceless proceeding of appeal its business activity was closed at the point of time the notices were issued in online its senior members in charge of business had died of protracted illness and old-age.

8. That the appellant states that the delay in filing of the appeal occurred due to reasons beyond its control. The same therefore, is due to a reasonable cause. The appellant submits that it has got a good case on merit and would suffer irreparable financial injury in the event the appeal is not admitted for hearing. The appellant submits that the delay in filing of the appeal may be condoned and the appeal be heard on merits.

It is prayed accordingly,"

03. On perusal of the condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned for both the assessment year.

04. At the time of hearing, the Id. AR submitted that assessee has already gone into Vivad Se Vishwas Scheme 2024 ('VSVS 2024' Scheme) by filing form no.1, with the competent authority and therefore, prayed that the assessee may be allowed to withdraw this appeal to which the Id. DR did not oppose.
05. Hence, we are dismissing the appeal as withdrawn with a liberty to the assessee to get the appeal revived by filing necessary miscellaneous application if the assessee is not successful in the VSVS-24, for any reason, whatsoever.
06. In the result, the appeals of the assessee are dismissed as withdrawn.

Order pronounced in the open court on 13.06.2025.

Sd/-
(SANJAY AWASTHI)
(ACCOUNTANT MEMBER)

Sd/-
(DUVVURU RL REDDY)
(VICE PRESIDENT)

Kolkata, Dated: 13.06.2025

Prakash Kumar Mishra, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, PATNA