

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B', BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 2556/Bang/2024
Assessment Year: 2017-18

Suresh Ashwathasastry Madamuthanahally, No.1088, 5 th Main Road, 14 th Cross, Behind Shivanapalya Main Road, Gnanabharathi Layout, KS Town, Bangalore. PAN – ANGPM 9928 A	Vs.	The Income Tax Officer, Ward – 5(2)(4), Bangalore. .
APPELLANT		RESPONDENT

Assessee by	:	Shri Deepesh Wagle, CA
Revenue by	:	Shri Subramanian S, JCIT (DR)

Date of hearing	:	17.06.2025
Date of Pronouncement	:	25.06.2025

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the NFAC vide order dated 04/12/2023 in DIN No. ITBA/NFAC/S/250/2023-24/1058444091(1) for the assessment year 2017-18.

2. The assessee has filed an application for condonation of delay of 322 days in filing this appeal. The delay, according to the assessee, was due to the fact that the notice of hearing before the Ld. CIT(A) was served to an email address which did not belong to the assessee.

Consequently, the assessee did not receive any opportunity to be heard. Only after receiving a telephonic intimation from the Income Tax Department regarding an outstanding demand, the assessee became aware of the order passed under section 250 of the Income Tax Act, 1961.

3. It is further submitted that the delay was inadvertent and unintentional, arising due to the lack of proper service of notice. The assessee has prayed that, in the interest of justice and equity, the delay may be condoned.

4. On perusal of the records and after hearing the contentions of the Ld. Authorised Representative (AR), and in the absence of any serious objection from the Ld. Departmental Representative (DR), especially in light of the facts that the email notice delivery was not controverted by the revenue, we are of the opinion that there exists a reasonable cause for the delay. The conduct of the assessee does not show any deliberate latches or negligence. Accordingly, the delay of 322 days in filing the appeal is condoned in the interest of substantial justice.

5. Coming to the merits of the case, we find that the assessment was completed by the Assessing Officer under section 144 of the Act. The Ld. CIT(A) passed an ex parte order under section 250 of the Income Tax Act, 1961. Section 250(6) mandates that the order of the Commissioner (Appeals) shall state the points for determination, the decision thereon and the reasons for the decision. In the present case, the assessee was deprived of the opportunity of being heard due to service defects, and therefore, the principles of natural justice appear to

have been violated. In view of the above, and considering the fact that the Id. CIT(A)'s order was passed without proper service and hearing, we set aside the order of the Ld. CIT(A) as well as the assessment order passed by the AO under section 144 of the Act and restore the matter to the file of the Assessing Officer for de-novo adjudication. The Assessing Officer is directed to reframe the assessment order after granting a reasonable opportunity of being heard to the assessee, as per the principles of natural justice and provisions of the Act. The assessee is also directed to appear and fully cooperate in the proceedings without seeking unwarranted adjournments or delays. Hence, the grounds of appeal are allowed for statistical purposes.

6. In the result, the delay is condoned, and the appeal is allowed for statistical purposes.

Order pronounced in court on 25th day of June, 2025

Sd/-

(KESHAV DUBEY)

Judicial Member
Bangalore
Dated, 25th June, 2025

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

Sd/-

(WASEEM AHMED)

Accountant Member

By order

Asst. Registrar, ITAT, Bangalore