

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA**

**SHRI GEORGE MATHAN, JUDICIAL MEMBER  
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 2040/Kol/2024  
Assessment Year : 2020-21**

**Trisita Engineering LLP,**  
Unit 22, 8 Ho Chi Minh Sarani,  
Middleton row, S.O.  
Kolkata - 700071  
[PAN: AALFT0664Q]

..... **Appellant**  
**vs.**

**Assistant Director of Income Tax,  
CPC, Bengaluru,**  
Income Tax Department, CPC,  
Post Box No. 1, Electronic City Post  
Post Office, Bangalore,  
PIN: 560100

..... **Respondent**

**Appearances by:**

Assessee represented by : Siddarth Agarwal, Advocate  
Department represented by : Raja Sengupta, CIT(DR)

Date of concluding the hearing : 18.06.2025  
Date of pronouncing the order : 30.06.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER**

1. This appeal arises from an order passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 05.08.2024, u/s 250 of the Income Tax Act, 1961 (hereafter "the Act").

1.1 In this case, the AO CPC made an adjustment of Rs. 15,00,000/- and reduced the amount of refund due in the case of this assessee. The said adjustment was made by disallowing the deduction claimed u/s 40(b) of the Act. At first appellate stage, it is seen that there was a delay of more than two years, which was not condoned and the appeal was dismissed without any adjudication on merits.

1.2 Aggrieved with this action, the assessee is in appeal through the following grounds:

*“1. That under the facts and circumstances of the case and in law the order passed by the Ld. Commissioner of Income-tax (Appeals), ADDL/JCIT (A), Vadodara on 05/08/2024 vide DIN & Order No: ITBA/APL/S/250 /2024-25/1067302630(1) for the assessment year 2020-21 is bad-in-law, arbitrary, perverse, unsustainable and against the principles of natural justice.*

*2. That under the facts and circumstances of the case the Ld. Commissioner of Income-tax (Appeals), ADDL/JCIT (A), Vadodara has grievously erred in sustaining the assessed total income at Rs.60,99,890 as against the returned income of Rs.45,99,890.*

*3. That under the facts and circumstances of the case and in law the Ld. Commissioner of Income-tax (Appeals), ADDL/JCIT (A), Vadodara has grossly erred in not considering the case on merit.*

*4. That under the facts and circumstances of the case and in law the Ld. Commissioner of Income-tax (Appeals), ADDL/JCIT (A). Vadodara has grievously erred in sustaining the disallowance of partner's remuneration of Rs. 15,00,000 even though the same is an allowable deduction under Section 40(b) of the Income Tax Act, 1961.*

*5. That under the facts and circumstances of the case and in law the Ld. Commissioner of Income-tax (Appeals), ADDL/JCIT (A). Vadodara has grievously erred in sustaining the adjustment/disallowance of Rs. 15,00,000 which is not permissible as it is not covered by any of the situations mentioned in Section 143(1)(a)(i) to 143(1)(a)(vi) resulting in an adjustment which is ultra vires.*

*6. That under the facts and circumstances of the case and in law the Ld. Commissioner of Income-tax (Appeals), ADDL/JCIT (A), Vadodara has grossly erred both on facts and in law in upholding the adjustment/disallowance made by the Asst. Director of Income Tax, CPC Bengaluru not permissible being outside the purview of Section 143(1)(a)(i) to 143(1)(a)(vi) of the Income Tax Act, 1961.*

*7. That under the facts and circumstances of the case and in law the Ld. Commissioner of Income-tax (Appeals), ADDL/JCIT (A). Vadodara has grossly erred both on facts and in law in sustaining the act of the Asst. Director of Income Tax, CPC Bengaluru in not giving the assessee an intimation seeking to make the adjustment/disallowance thereby violating the mandate of 1st Proviso to Section 143(1) rendering the order bad in law.*

*8. The appellant craves leave to make any addition, alteration or modification etc., of the grounds either before the appellate proceedings, or during the course of appellate proceedings.”*

2. Before us, the Ld. AR vehemently argued that the delay before the Ld. Addl/JCIT(A) was due to the fact that the assessee had filed a rectification application u/s 154 of the Act. It was mentioned that even after persuasion the application u/s 154 of the Act was not disposed of. Thereafter, the assessee decided to file the appeal before the first appellate authority. The

Ld. AR requested that they have a strong case on merit and hence they deserve a chance to agitate the issue before the first appellate authority again.

2.1 The Ld. DR relied on the AO's order.

3. We have carefully considered the documents before us and heard the Ld. AR/DR. It is settled position that in the interest of substantive justice any judicial or the quasi-judicial forum would be liberal in condoning delays in filing of the appeals. On appraisal of the facts and circumstances of this case, we feel that the assessee deserves a chance to present his case before the first appellate authority and accordingly we condone the delay before him and remand this matter back to the file of Ld. Addl./JCIT(A) for adjudication. Needless to say, the impugned order is set aside.

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

Order pronounced on 30.06.2025

Sd/-  
**(George Mathan)**  
**Judicial Member**

Sd/-  
**(Sanjay Awasthi)**  
**Accountant Member**

Dated: 30.06.2025

AK, Sr. P.S.

*Copy of the order forwarded to:*

1. Trisita Engineering LLP
2. Assistant Director of Income Tax, CPC, Bengaluru
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches