

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 5103/Del/2024
(Assessment Year: 2020-21)

Surya Laxmi Industries, 7-B, Bigjos Tower, Netaji Subhash Place, Pitampura, New Delhi	Vs.	DCIT, New Delhi
(Appellant)		(Respondent)
PAN: ABWFS8662D		

Assessee by :	Shri Lalit Mohan, Adv Shri Ankit Kumar, Adv
Revenue by:	Shri Manish Gupta, Sr. DR
Date of Hearing	22/05/2025
Date of pronouncement	16/07/2025

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.5103/Del/2024 for AY 2020-21, arises out of the National Faceless Appeal Centre (NFAC), Mumbai [hereinafter referred to as 'Id. NFAC', in short] in Appeal No. ITBA/APL/S/250/2024-25/1068380330(1) dated 05.09.2024 against the order of assessment passed u/s 143(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 12.10.2021 by the Assessing Officer, Asst. Director of Income Tax, CPC, Bengaluru (hereinafter referred to as 'Id. AO').

2. The only effective issue to be decided in this appeal is as to whether the Id JCIT was justified in condoning the delay in filing of appeal of the assessee by

1007 days and dismissing the appeal in limine in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the material available on record. The due date for filing of income tax return u/s 139(1) of the Act was 15.02.2021 for AY 2020-21. The assessee filed the return of income on 13.02.2021 declaring total income of Rs. 1,25,58,290/- after claiming deduction of Rs. 35,88,719/- u/s 80IC of the Act. The assessee filed the Tax Audit Report along with audited financial statements for year ended 31.03.2020 relevant to AY 2020-21 which were electronically uploaded on 15.01.2021. The assessee filed the audit report in Form No. 10CCB of the Act for claiming deduction 80IC of the Act on 13.02.2021, i.e. the date of filing of income tax return. The return was duly processed u/s 143(1) of the Act on 12.10.2021 by the Id CPC determining the total income of Rs. 1,61,83,210/- denying the claim of deduction of Rs. 35,88,719/- u/s 80IC of the Act. The assessee preferred rectification u/s 154 of the Act before Id CPC against the denial of deduction u/s 80IC of the Act on the ground that no opportunity was given by Id CPC and no reason has been assigned for denial of deduction u/s 80IC of the Act by the Id CPC. The Id CPC passed an order u/s 154 of the Act on 10.01.2023 rejecting the plea of the assessee. The assessee preferred yet another rectification application u/s 154 of the Act on 11.02.2023 before the Id CPC. The Id CPC dismissed another rectification application u/s 154 of the Act of the assessee. Appeal was filed before the Id CIT(A) against section 154 order dated 11.02.2023 on 21.02.2023. Submissions were filed before the Id CIT(A) on 30.05.2024 by the assessee. The appeal was dismissed vide order dated 26.06.2024 on the grounds that the issue requires long drawn process of reasoning which cannot be subject matter of rectification proceedings u/s 154 of the Act.

4. Thereafter, the assessee preferred an appeal before the Id CIT(A) on 14.8.2024 against the intimation dated 12.10.2021 u/s 143(1) of the Act along with condonation of delay for the delay of 1007 days. The Id CIT(A) completely ignoring the aforesaid background of the facts and the alternative remedial measures being sought by the assessee, proceeded to hold that there was no sufficient cause for the delay of 1007 days in filing of appeal before the Id CIT(A) and accordingly dismissed the appeal as not maintainable. In our considered opinion, the assessee had indeed sufficient cause for the delay as it was pursuing alternative remedy before the Id CPC as the claim of deduction u/s 80IC of the Act was denied to the assessee without assigning any reason thereon by the Id CPC. In these facts and circumstances, we direct the Id CIT(A) to condone the delay in filing of appeal, admit the appeal of the assessee and adjudicate the grounds raised by the assessee on merits and pass a speaking order thereon. The assessee is also entitled to file additional grounds, if any, in support of its contentions. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is also directed to cooperate with the Id CIT(A) in its own interest for expeditious disposal of the appeal by the Id CIT(A). With these directions, the grounds raised by the assessee are allowed for statistical purposes and restored to the file of the Id CIT(A).

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

Order pronounced in the open court on 16/07/2025.

-Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 16/07/2025

A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi