

आयकरअपीलीय अधिकरण, जयपुरन्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES, "SMC" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिकसदस्य एवंश्रीराठोडकमलेशजयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकरअपीलसं./ITA No. 917/JPR/2024
निर्धारणवर्ष / AssessmentYear : 2017-18

Shri Mohd. Saeed 1/43, Van Vihar Colony, Delhi By-Pass Road Idgah, Jaipur – 302 002 (Raj.)	बनाम Vs.	The ITO Ward -5(4) Jaipur
स्थायीलेखा सं./जीआईआरसं./PAN/GIR No.: BHUPK 9221 K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Deepak Sharma, Advocate
राजस्व की ओरसे / Revenue by: Shri Gautam Singh Choudhary, JCIT-DR

सुनवाई की तारीख / Date of Hearing : 10/07/2025
उदघोषणा की तारीख / Date of Pronouncement: : 18 /08/2025

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [for short CIT(A)]dated 30-04-2024, for the assessment year 2017-18 raising therein following grounds of appeal;

"1. The impugned order passed u/s 154 on dated 07.08.2018 of Act is bad in law and o Facts of the case, for want of jurisdiction and various other reasons and hence, the same kindly be deleted.

2. The Id. CITUA) erred in law and on the facts of the case by confirming the action of the DCIT CPC, in rejecting the application filed on 01.09 2018 u/s 154, in reference to the order dated 07.08.2018 u/s 143(1). This rejection is contrary

to the provisions of law and the facts of the case. Therefore, it is requested that the impugned order rejecting the application dated 01.09.2018 be quashed and set aside

3. Rs 31,06,910: The Id. CITEA) erred in law and on the facts of the case by confirming the action of the DCIT, CPC, in rejecting the claim of the assessee that the salary income of Rs.3,10,691/- was incorrectly reported as Rs. 31,06,910/- due to a clerical error when filing the ROI us 139(1). However, the DCIT, CPC, wrongly assessed the salary income at Rs 31,06,910/-, instead of the correct amount of Rs 3,10,691/-. This assessment is contrary to the provisions of law and the facts of the case. Therefore, it is regarded that the impugned order be quashed.”

2.1 Apropos grounds of appeal, it is noticed that the Id. CIT(A) has dismissed the appeal of the assessee on the ground of delay of 563 days in filing the appeal by the assessee before the Id. CIT(A). The narration so made by the Id. CIT(A) as to dismissal of appeal is reproduced as under:-

“In form 35 the date of service of intimation u/s 143(1) of I. T.Act is mentioned as 09.10.2018 and further the appeal has been finally filed after 563 days on 22.03.2020, which is after the due date as per law No credible reason has been given by the appellant assessee in support of its contention. The appellant has also tried to shift the blame of non-filing of appeal within due time for non-awareness/lack of expert advice and complexities of tax laws etc. This is like passing the buck. Any prudent and sanguine assessee cannot and should not pass the buck for critical decision impacting him majorly to any alternative source of authority As per assessee'sversion his last application was rejected by the AO on 24.01.2020 and this appeal is filed 58 days after that order. All in all this reflects a very casual approach

It is seen that there was no priority in the mind of the appellant to file the appeal Hence the request for condonation of delay is rejected

Therefore, the present appeal is not maintainable on this issue alone.

Notwithstanding the same, further it will also not help the cause of the appellant assessee that after getting ample opportunities for submission of reply (3 notices were served to the appellant), the appellant responded, however in the replies filed. the appellant had reiterated again and again that Form 16 for the relevant year in consideration is submitted but actually he has not submitted form 16 for

relevant financial year pertaining to the assessment year in question and the bank account statement which have been submitted are partial and incomplete so overall his contention remains unverified and unsubstantiated

Due to the above stated facts the delay is not condoned, and the appeal is dismissed

In result the appeal is dismissed.”

2.2 During the course of hearing, the Id. AR of the assessee submitted that the delay in filing the appeal before the Id. CIT(A) was neither intentional nor deliberate. He further submitted that in the past there was no such delay ever occurred. In any case, actually it was a minor delay of 58 days as per order dated 24-01-2020 of the AO. Hence such delay deserves to be kindly condoned. To this effect, the Id. AR of the assessee has placed reliance of following decisions.

1. Collector, Land Acquisition vs Mst.Katiji& others (1987) 167 ITR 471 (SC) has observed as under:-

“The legislature has conferred the power to condone delay by enacting section 5 of the Limitation Act 1963 in order to enable the Courts to do substantial justice to parties by disposing of matters on 'merits'. The expression sufficient cause employed by the legislature is adequately elastic to enable the Courts to apply the law in a meaningful manner which sub serves the ends of justice-that being the life-purpose of the existence of the institution of Courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But, the message does not appear to have percolated down to all the other Courts in the hierarchy.”

2. Hosanna Ministries vs ITO (2017) DTR 0008 (Mad) has observed as under:-

"Appeal (Tribunal) Condonation of delay Reasonable cause-Delay of 1902 days in filing appeal against CIT's order under s. 12AA was, as explained by

assessee, on account of non-advise on the part of the professional, who has been engaged by the assessee and the ignorance of law by the assessee itself Assessee knew well that if a plea of ignorance of law is taken, that would be, on face of it, rejected by court/Tribunal, nevertheless, such a plea alone had been taken by the assessee and that itself would show the inherent genuineness attached with the reason cited by the assessee for such huge delay-court must take a pragmatic view in appreciating the reasons attributable to the delay caused to the party to approach the court of law further reason given by the tribunal for arriving at such a conclusion that the assessee was not engaging in activities in accordance with the objects specified in the trust deed also is not supported by materials as it is clear that the assessee has been functioning after proper registration with the authorities concerned under the Juvenile Act Impugned order of the Tribunal set aside."

The Id. AR of the assessee thus prayed that this application may kindly be allowed by condoning the delay, taking a sympathetic view, in the interest of justice.

2.3 On the other hand, the Id. DR supported the order of the Id.CIT(A).

2.4 We have heard both the parties and perused the materials available on record and from the submissions of the assessee, the Bench feels that the assessee was prevented with sufficient reason for not filling the appeal in time and therefore, we condone the delay considering the judicial precedent cited (supra). Hence, the delay so made by the assessee in filing the appeal before Id.CIT(A) is condoned.

3.1 As regards the issue of wrong claim of salary income of Rs.31,06,910/- as against correct salary income earned of Rs.3,10,691/-, it is noted that the assessee is a salaried person and drawing salary from M/s. K.D.K. Softwares India Pvt Ltd. The salary of the assessee had been

credited in the bank account of the assessee. During the year, the assessee earned salary of Rs.3,10,691/- but at the time filing of return of income, the assessee inadvertently entered Rs.31,06,910/- due to typographical error in normal course of working. The same was assessed vide intimation dated 07-08-2018 u/s 143(1) of the Act. Thereafter the assessee filed rectification request on 01-09-2018 u/s 154 of the Act but the same was rejected vide order dated 09-10-2018 by the Department (CPC, Bangalore). It is noted from the available record that the assessee had again filed a letter dated 21-02-2019 and letter dated 17-01-2020 which was finally rejected by the ITO, Ward 5(4), Jaipur vide No. 2019-20/1045 order dated 24-01-2020 stating as under:-

“उपरोक्त संबंध में आपके पत्र दिनांक 17.01.2020 के संदर्भ में लेख है कि आपके मामलों में नि.य. 2017-18 की आयकर विवरणी का रिकॉर्ड CPC Bangalore के द्वारा इस कार्यालय को स्थानांतरण नहीं किया गया है। जैसा कि आपने बताया कि आप द्वारा पूर्व में दिनांक 07.08.2018 को भूल सूधार (Rectification) हेतु आवेदन CPC Bangalore को किया था जिसे CPC order No. CPC/1718/A1/1814198399 के द्वारा आयकर निरस्त (reject) कर दिया गया था।”

3.2 In first appeal, the Id. CIT(A) dismissed the appeal of the assessee on account of non-condonation of delay in late filing the appeal by the assessee before him and he did not deal with the issue of addition.

3.3 During the course of hearing, the Id. AR of the assessee submitted that CPC, Bangalore has not made rectification in its order for the reason that the record relating to assessee had not been transferred by the Department to CPC, Bangalore and he further submitted that in view of the submissions of the assessee, the Bench is requested either to rectify the mistake or delete the addition for which the Id AR of the assessee has filed following detailed written submission.

“Facts: During the year under consideration, the is a salaried person and drawing salary from M/s K.D.K. Softwares India Pvt. Ltd. The salary of the assessee has been credited in the bank account of the assessee. During the year. the assessee earned salary of Rs.3.10.691/- Unfortunately, however, at the time of filling ROt the assessee entered Rs.31.06.910/- due to typing mistake in normal course of working. The same was assessed vide intimation dated 07.08.2018 u/s 143(1) of the Act.

Thereafter, the assessee filed rectification request on 01.09.2018 u/s 154 however, the same was rejected summarily. The assessee further filed rectification request before the Id. ITO. Ward-5(4), Jaipur, which was rejected by the Id. ITO Ward-5(4), Jaipur vide order dated 24.01.2020 stating that CPC-Bangalore has not transferred the record and hence rectification is not possible. Hence this appeal

GOA-1 to 3 Wrong claim of Salary Income of Rs.31,06,910/- as against correct salary income earned of Rs.3,10,691/-

Submissions:

1. Bonafide error committed by the assessee: At the outset, it is submitted that during the year the assessee earned Rs.3,10,691/ M/s K.D.K. Softwares India Pvt. Ltd. The said firm issued form-16 along with statement of details of Salary Paid and any other income and tax deducted.. Because of misfortune of the assessee, at the time of filling ROI put extra 0 after the amount Le. Rs.31,06,910/-. However, the actual salary was earned by the assessee was onlyRs.3.10.691/. In support of the same. we are enclosing herewith copy of Form-16 and statement of detailed Salary issued by KDK is enclosed herewith.

2. No such income was earned by the assessee in the past nor in future: It is pertinent to note that in the past Le. In AY. 2015-16 and in A.Y. 2016-17, the assessee was employee in the Channel Technologies (P) Ltd. New Delhi and earned net salary of Rs.1.37612/- in A.Y. 2015-16 (PB 1-2) and Rs.2.17.919/-in A.Y 2016-17 (PB 3-4). Similarly, in A.Y. 2018-19, the M/s K.D.K. Softwares India Pvt. Ltd. Jaipur and earned Gross salary of Rs.3.13.594/ (PB 5-9). Thus, the assessee never earned such a huge salary in the past, as also in the later year. It was only an unintended mistake could happen that even though the assessee had declared incorrect figure income of salary

The AO principally agreed that the assessee due to inadvertent mistake put wrong figure of salary however he rejected the contention vide his order dated 24.01.2020 (PB 20) merely saying that the records has not been transferred by the CPC and hence he cannot rectify the mistake:

उपरोक्त संबंध में आपके पत्र दिनांक 17.01.2020 के संदर्भ में लेख है कि आपके मामलें में नि.य. 2017-18 की आयकर विवरणी का रिकॉर्ड CPC Bangalore के द्वारा इस कार्यालय को स्थानांतरण नहीं किया गया है। जैसा कि आपने बताया कि आप द्वारा पूर्व में दिनांक 07.08.2018 को भूल सूधार (Rectification) हेतु आवेदन CPC Bangalore को किया था जिसे CPC order No. CPC/1718/A1/1814198399 के द्वारा आयकर निरस्त (reject) कर दिया गया था।

The above reply itself shows that though the Id. AO is agreed but because of Internal communication gap between the department and CPC itself he could not rectified the bonafide mistake. Thus, because of such a situation the assessee has been suffering from multiple situation. One hand his rectification request has been rejected without giving any justified reason and on the other the demand is asking for the demand.

3. No lota of huge Salary: One Important aspect to be considered is that the assessee is maintaining account with HDFC Bank Ltd (PB 10-19). A bare perusal of the same clearly shows that there was total deposits in the bank during the year was only of Rs.7,73,655/- (which includes cheque deposits from relatives and salary of Rs.3,10,691/-) and not Rs. Rs.31,06,910/- as was assessed by the CPC, Bangaluru u/s 143(1). Thus, there was no lota of evidence to support that assessee earned such a huge salary during the year. It was the duty of the AO to assist the tax payer in a reasonable way and to provide the relief if due to the assessee.

4. Income liable to be taxed has to be worked out: It is further submitted that the assessee filed rectification letter before the TO-5(4), who was the jurisdictional AO and stated as under:

"In The matter referred above. I am a salary Parson and I filed my Income Tax returns on 05 August 2017 for the assessment year 2017-18 Due to typing mistake put wrong income entered in the salary column "b". Put 3106910.00 instead of Rs310691.00 that was my 1st experience I didn't know what I did wrong in that return. After getting mail I got to know my mistake. There is need be rectified the order. I applied for rectification vide reference number 635127590010918 on 01/09/2018 on portal but rejected my request on 07/08/2018 vide CPC order number CPC/1718/A1/1814198399. I am just a salary person. I have not earned such an amount yet what I did put in the return that was a just typing mistake. You can check my form 16 also. I am enclosing copy of form-16 my IIR with computation and order copy along with this application. I therefore request you to kindly take above facts and documents on record and rectify the order and oblige."

However, none of the authorities judiciously considered the rectification request filed by the assessee. The income tax proceedings are not adversarial proceedings. As to who is responsible for the mistake is not material for the purpose of proceedings u/s 154. **what is material is that there is a mistake-** a mistake which is clear, glaring and which is incapable of two views being taken. The fact that mistake has occurred is beyond doubt. The fact that it is attributed to the error of the assessee does not obliterate the fact of mistake or legal remedies for a mistake having crept in. **It is only elementary that the income liable to be taxed has to be worked out in accordance with the law as in force.** In this process, it is not open to the Revenue authorities to take advantage of mistakes committed by the assessee. Tax cannot be levied on an assessee at a higher amount or at a higher rate merely because the assessee, under a mistaken belief or due to an error, offered the income for taxation at that amount or that rate. It can only be levied when it is authorized by the law, as is the mandate of Art. 265 of the Constitution of India. A sense of fairplay by the field officers towards the taxpayers is not an act of benevolence but it is call of duty in socially accountable governance.

Hence the impugned additions kindly be deleted in full or the AO kindly be ordered to rectify the mistake and delete the addition."

3.4 On the other hand, the Id. DR supported the orders of the lower authorities.

3.5 We have heard both the parties and perused the materials available on record. Brief facts of the case are that the assessee is a salaried person and drawing salary from M/s. K.D.K. Softwares India Pvt Ltd. The salary of the assessee is credited in his bank account. During the year under consideration, the assessee had earned salary of Rs.3,10,691/- but due to typographical error, the amount was mentioned in the return of income as Rs.31,06,910/- instead of Rs.3,10,691/-. The same was assessed vide intimation dated 07-08-2018 u/s 143(1) of the Act. Thereafter, the assessee filed rectification request on 01-09-2018 u/s 154 of the Act but the same was rejected by the Department. The assessee further filed rectification request before the AO,ITO, Ward 5(4), Jaipur who also rejected the same vide his order 24-01-2020 stating that CPC Bangalore has not transferred the record and hence rectification is not possible. The narration of the ITO, Ward 5(4), Jaipur is as under:-

उपरोक्त संबंध में आपके पत्र दिनांक 17.01.2020 के संदर्भ में लेख है कि आपके मामलें में नि.य. 2017-18 की आयकर विवरणी का रिकॉर्ड CPC Bangalore के द्वारा इस कार्यालय को स्थानांतरण नहीं किया गया है। जैसा कि आपने बताया कि आप द्वारा पूर्व में दिनांक 07.08.2018 को भूल सूधार (Rectification) हेतु आवेदन CPC Bangalore को किया था जिसे CPC order No. CPC/1718/A1/1814198399 के द्वारा आयकर निरस्त (reject) कर दिया गया था।

From the above discussions, it appears that the AO agrees with the submissions of the assessee but because of internal communication gap between the Department and CPC, the AO was unable to rectify the bona fide mistake. It is also noteworthy to mention that the assessee is maintaining account with HDFC Bank Ltd. (PB 10-19) wherein the total deposits of the assessee during the year was at Rs.7,73,655/- (which includes cheque deposits from relatives and salary of Rs.3,10,691/-) not Rs.31,06,910/- as was assessed by the CPC, Bangalore u/s 143(1) of the Act. To this effect, the assessee also filed an affidavit dated 05.10.2024. He also supported that affidavit with Form no. 16 issued by M/s. KDK Softwares India Private Limited wherein the salary of Rs. 3,10,691/- is mentioned. Hence, from the entire conspectus of the case, it is noted that there had been typographical mistake by the assessee in filing the return of income wherein he has shown salary income of Rs.31,06,910/- instead of Rs.3,10,691/-. Hence in view of the facts and circumstances of the case, the salary income of the assessee is treated as Rs.3,10,691/- and the appeal of the assessee is allowed with the direction to the AO to make actual correction in his record.

4.0 In the result, the appeal of the assessee is allowed as indicated hereinabove.

Order pronounced in the open court on 18 /08/2025.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिकसदस्य / Judicial Member

Sd/-

(राठोडकमलेशजयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखासदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 18 /08/2025

*Mishra

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Shri Mohd. Saeed, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, 5(4), Jaipur
3. आयकरआयुक्त / Theld CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File (ITA No.917/JP/2024)

आदेशानुसार / By order,

सहायकपंजीकार / Asstt. Registrar