

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.696/PUN/2025
निर्धारण वर्ष / Assessment Year : 2017-18

Shivam Multispecialty and Accident Care Centre Pvt. Ltd., Opp. Manali Resort, Near DSK Dream City, Next to Loni Kalbhor Toll Naka, Pune-Solapur Mumbai Bypass Road, Fursungi, Pune-412308, Maharashtra PAN : AAPCS5482A	Vs.	Income Tax Officer, Ward – 6(1), Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Dhiraj Dandgaval
Department by :	Shri Akhilesh Srivastva
Date of hearing :	06-08-2025
Date of Pronouncement :	27-10-2025

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 29.01.2025 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi ["CIT(A)"] pertaining to Assessment Year ("AY") 2017-18.

2. It is a case of ex-parte assessment under section 144 of the Income Tax Act, 1961 (the "Act"). The assessee filed its return of income on 01.05.2018 declaring total income of Rs.13,220/-. The case of the assessee was selected under limited scrutiny through CASS for verification of share application money. Accordingly, statutory notices under section 143(2)/142(1) were issued and served upon the assessee. However, the assessee failed to file any compliance before the Ld. Assessing Officer ("AO") which constrained the Ld. AO to make a best judgment assessment under section 144 of the Act. The Ld. AO noted that during the year the assessee received share capital of Rs.1,55,23,742/-, the source of which remained unexplained by the assessee. He therefore added the said receipt

of 1,55,23,742/- to the income of Rs. 13,220 returned by the assessee as unexplained credits under section 68 of the Act.

3. Aggrieved, the assessee carried the matter before the Ld. CIT(A)/NFAC. Before the Ld. CIT(A)/NFAC, the appeal was filed with a delay of about 397 days. The Ld. CIT(A)/NFAC did not condone the said delay and dismissed the appeal observing that the reasons cited by the assessee are not reasonable and do not constitute to be sufficient cause for not presenting the appeal in time.

4. Dissatisfied, the assessee is in appeal before the Tribunal raising the following grounds of appeal:

“On the facts and in the circumstances and in law the Commissioner of Income Tax (Appeal) has dismissed the appeal by ignoring the fact that appellant has filed a Revised Return of Income on 01/05/2018 with correct particulars and the same has been ignored.

In appeal the assessee furnishes the grounds for condonation for delay in filing appeal and the same ground was dismissed by Commissioner of Income Tax (Appeal) by mentioning that the reasons cited by the appellant are not reasonable and do not constitute to be sufficient causes for not presenting the appeal in time.

Your appellant craves for to add, alter, amend, modify, and delete any or all above referred grounds before or during the course of hearing in the interest of natural justice.”

5. The Ld. AR submitted that though there was a delay of around 397 days in filing of the appeal before the Ld. CIT(A)/NFAC, however, if the Covid period as per the directions of the Hon'ble Supreme Court is excluded, there would be hardly a delay of around 20 to 25 days. The Ld. AR submitted the delay in filing the appeal before the Ld. CIT(A)/NFAC was not deliberate. The assessee has submitted all the relevant facts before the Ld. CIT(A)/NFAC, however, without considering the same, the Ld. CIT(A)/NFAC dismissed the appeal for delay in filing the appeal. The reason for such delay as cited by the assessee in its affidavit were not found to be reasonable by the Ld. CIT(A)/NFAC. He submitted that after getting to know about the assessment proceedings, the auditor was informed about assessment order. However, due to the work pressure during Covid-19 period, the auditor could not file the appeal in time. Due to Covid-19 pandemic, the company being a hospital, was busy in providing services to patients till the end of January, 2021, the company could not take follow up with the tax consultants office about filing appeal.

This fact came to the notice of the company only when the company received notice from the Ld. AO. The Ld. AR submitted that the assessee has a strong case on merits and given an opportunity the assessee is in a position to substantiate its case by filing the requisite details before the Ld. CIT(A)/NFAC. He, therefore, prayed that in the interest of justice, the matter may be restored to the file of the lower authorities for adjudication afresh on merits, after affording an opportunity of hearing to the assessee.

6. The Ld. DR, on the other hand, heavily relied on the order of the Ld. CIT(A) / NFAC.

7. We have heard the rival arguments made by both the sides and perused the material available on record. It is an admitted fact that due to delay in filing of the appeal before the Ld. CIT(A) / NFAC, he dismissed the same on the ground that there was no reasonable cause shown by the assessee for delay in filing of the appeal. It is the submission of the Ld. Counsel for the assessee that the delay was not deliberate but has occurred due to the reason(s) mentioned in the preceding paragraph and thus there was a reasonable cause on the part of the assessee.

8. We find the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji & Ors. reported in 167 ITR 471 (SC) has held that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

9. We find recently the Hon'ble Supreme Court in the case of Inder Singh Vs. The State of Madhya Pradesh reported in 2025 LiveLaw (SC) 339 has held as under:

“14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation.”

10. In the light of the above decisions of Hon'ble Supreme Court cited (supra), we deem it proper to restore the issue to the file of the Ld. CIT(A) / NFAC with a direction to condone the delay and decide the appeal on merit after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to make its submissions, if any, on the date of hearing without seeking any adjournment unless required for a sufficient cause. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

11. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 27th October, 2025.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 27th October, 2025.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune