



IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "A", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2495/PUN/2024
Assessment Year : 2015-16

Balkrishna Dnyanoba Khandve, Sr.No.22, Lohgaon, Vadgaon Road, Taluka Haveli, Pune 411047 Maharashtra PAN : ABEPK0494P	Vs.	ACIT, Central Circle-2(3), Pune
Appellant		Respondent

Appellant by	:	Shri Kishor B Phadke
Respondent by	:	Shri Ramnath P. Murkunde
Date of hearing	:	22.09.2025
Date of pronouncement	:	29.10.2025

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The captioned appeal at the instance of assessee pertaining to A.Y. 2015-16 is directed against the order dated 05.07.2024 framed by CIT(A), Pune-12 emanating out of Assessment Order dated 21.03.2022 passed u/s.147 of the Income Tax Act, 1961 (in short 'the Act').

2. Registry has informed that there is delay of 59 days in filing the appeal before this Tribunal. Assessee has filed an affidavit explaining the delay.

3. On perusing the averments made in the Affidavit, we are satisfied that '*reasonable cause*' prevented the assessee to file the appeal within the stipulated time. We note that the delay is not intentional and assessee would not have gained from



ITA No.2495/PUN/2024
Balkrishna Dnyanoba Khandve

filing the appeal with a delay. We therefore taking justice oriented approach and taking guidance from the judgments of Hon'ble Apex Court in the case of *Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors. reported in (1987) 2 SCC 107* and in the case of *Inder Singh Vs. State of Madhya Pradesh judgment dated 21.03.2025 (2025 INSC 382)* condone the delay of 59 days in filing of the instant appeal before this Tribunal and admit the appeal for adjudication.

4. We have heard the rival contentions and perused the record placed before us. We note that the assessee is an individual and proprietor of firm M/s. Samarth Stone Quarry and Satish Transport. Assessee is also a partner in M/s. Deepali Stone Crusher. Income of Rs.68,32,530/- declared in the return filed for A.Y. 2015-16 on 30.09.2015. Survey u/s.133A of the Act carried out in the case of M/s. Deepali Stone Crusher, B.D. Khandve group and others. Certain incriminating documents were found and ld. AO believed that income chargeable to tax has escaped assessment. Statutory notices u/s.148, 143(2) and 142(1) were served upon the assessee and the assessee in response to show cause notice dated 25.01.2022 furnished his submissions on 24.02.2022. After considering the submissions of the assessee, ld. Assessing Officer concluded the assessment proceedings assessing the total income at Rs.1,33,43,530/- as against returned income at Rs.68,32,530/- u/s.147 of the Act making the following four additions :

1. Disallowance u/s.40a(ia) of the Act – Rs.40,000/-
2. Disallowance u/s.40A(3) of the Act – Rs.76,000/-
3. Disallowance u/s.37 of the Act – Rs.5,73,000/-



4. *Long term capital gain – Rs.58,22,000/-*

5. Aggrieved assessee preferred appeal before Id.CIT(A) but with a delay of 22 days. Ld.CIT(A) has dismissed the appeal *in limine* without dealing with merits of the case by not condoning the delay. Now the assessee is in appeal before this Tribunal assailing the impugned order.

6. In the affidavit filed for delay, we find that assessee has stated that assessee is unaware of the latest information technology advancements and he was hospitalized at the relevant point of time. He was totally dependent upon the staff and the email id could not be accessed and therefore there was delay in filing of appeal before Id.CIT(A). Therefore, it is manifest that there is non-compliance before Id.CIT(A) for the aforementioned reasons. It is also a fact that Id.CIT(A) has not dealt with merits of the case as he did not condone the delay before him.

7. Considering all these aspects, we find that assessee has not gained by delaying the filing of appeal before Id.CIT(A) and therefore in the larger interest of justice and being fair to both the parties we deem it appropriate to afford one more opportunity to the assessee to go before Id.CIT(A) for afresh adjudication. In view thereof, without dwelling into merits of the case, the issues raised in the instant appeal are remitted back to the file of Id.CIT(A). Needless to mention that in the set aside proceedings Id CIT(A) shall grant reasonable opportunity to the assessee. Assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause. Impugned order is set aside



ITA No.2495/PUN/2024
Balkrishna Dnyanoba Khandve

and the effective grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced on this 29th day of October, 2025.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 29th October, 2025.
Satisb

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, "A" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.