

IN THE INCOME-TAX APPELLATE TRIBUNAL "D" BENCH,
MUMBAI

BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No. 4506/MUM/2025
(A.Y. 2012-13)

M/s. Shree Renuka Sugars Limited (Successor in interest of M/s Monica Trading Pvt. Ltd.), 2 nd & 3 rd Floor, Kanakshree Arcade, JNMC Road, Nehru Nagar, Belagavi – 590 010, Karnataka	v/s. बनाम	Deputy Commissioner of Income Tax, Circle – 7(1)(1), Aayakar Bhavan, M.K. Road, Mumbai – 400020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AADCS1728B		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri K.K. Chythanya, Sr. Adv. & Tata Krishna, Adv.
Respondent by :	Shri Umashankar Prasad, (CIT-DR)

Date of Hearing	17.09.2025
Date of Pronouncement	16.10.2025

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] pertaining to assessment order passed u/s. 147 r.w.s. 144 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 23.12.2019 for the Assessment Year [A.Y.] 2012-13.



2. The grounds of appeal are as under:

1. *The reassessment order under section 147 read with section 144 dated 23.12.2019 is invalid and bad in law being without valid Document Identification Number (DIN) in violation of Circular No. 19/2019 dated 14.08.2019,*
2. *The Order of the Learned CIT (A), NFAC is not justified in law and on facts and circumstances of the case.*
3. *The Order of the Learned CIT(A), NFAC being passed in the name and PAN of the predecessor is invalid and bad in law when the predecessor entity stood merged with the Appellant with effect from 01.04.2022 vide order of the NCLT, Bengaluru Bench dated 22.10.2024.*
4. *The Order of the Learned CIT(A), NFAC is invalid and bad in law being passed in violation of Rule 5(1)(ii)(a) & (b) of the Faceless Appeal Scheme, 2021.*
5. *The Order of the Learned CIT(A), NFAC is invalid and bad in law as the hearing notices have not been communicated by the National Faceless Appeal Centre, in accordance with the requirement of Rule 9(a) of the Faceless Appeal Scheme, 2021.*
6. *The Learned CIT(A), NFAC has erred in failing to condone the delay of 37 days in filing the appeal and not hearing the appeal on merits, despite the fact that the Appellant was issued hearing notices wherein it was asked to make submission on merits which were duly complied with by the appellant.*
7. *The Learned CIT(A), NFAC has erred in dismissing the appeal in limine as being time barred without showing any cause to the Appellant as to why the appeal should not be dismissed on account of delay.*
8. *The Learned CIT(A), NFAC is not justified in denying the opportunity of personal hearing when a specific request for the same was made in the submission filed on 11.03.2024 in response to hearing notice dated 04.03.2024, which is against the principles of natural justice and mandate of Faceless Appeal Scheme, 2021.*
9. *The Learned CIT(A), NFAC has failed to appreciate that the delay in filing of appeal arose due to the fact that the reassessment order was uploaded on the portal of the predecessor company without a copy of the same being physically served and the concerned officer of the predecessor company who was dealing with the day to day statutory compliances had left the organization without sharing the login credentials of the portal or intimating the company about the*



reassessment order being uploaded on the portal, which reason would constitute a 'sufficient cause' for delay in filing appeal.

10. The Learned CIT(A) has erred in rejecting the condonation application without properly considering the reasons and by unjustly brushing aside the reasons furnished by the predecessor without bringing on record any evidences to dislodge the same.
11. The Learned CIT(A) has failed to appreciate that 'sufficient cause' should be liberally construed and its' proof can be discharged by the preponderance of probabilities.
12. The Learned CIT(A) having accepted that the power to condone delay should be exercised reasonably, has erred in dismissing the appeal without appreciating that the delay is not occasioned on account of negligence, default or deliberate inaction on part of the predecessor company.
13. The Learned CIT(A) has erred in attributing the delay to the laches and deliberate inaction on part of the predecessor merely on the basis of surmises and conjectures without bringing on record any evidences in this regard.
14. The Learned CIT(A) having accepted that the cases where delay is of few days should be distinguished from cases where delay is inordinate, has erred in dismissing the appeal which is belated by an insignificant period of only 37 days.
15. The Learned CIT(A) has erred in perversely stating in para 4 of the appellate order that "no reason has been made during the appellate proceeding for delayed filing of appeal, without appreciating that the reasons for delay were furnished in the application for condonation enclosed along with the appeal in Form 35.
16. Without prejudice, the observation of the Learned CIT(A) that no reason has been made for delayed filing of appeal is perverse and contrary to pages 11 and 12 of the appellate order wherein the Learned CIT(A) has reproduced the condonation application filed for delay.
17. The Learned CIT(A) has erred in dismissing the appeal in limine as being time barred on the grounds of absence of supporting evidence without even adverting to the reasons furnished for delay in filing of appeal and without seeking for any such evidences.

3. At the outset, it was pointed out that the instant appeal is delayed by 197 days. The assessee has submitted a condonation



application dated 15.07.2025 requesting for condonation of the delay. It is stated that the appellate order passed by the Id.CIT(A) dated 08.10.2024 was uploaded on the registered account of the predecessor company Monica Trading P. Ltd which got merged with the assessee on 01.04.2022 vide NCLT order dated 22.10.2024. Consequently the appellate order was required to be passed in the name and PAN of the assessee company. However, as the NCLT order was passed in the name of the predecessor, the appellate order was also passed in its name and uploaded in the registered account of the predecessor company on e-filing portal. Thus, the assessee was not aware of the order passed u/s 250 of the Act. Consequently, the appeal could not be filed within the period of two months on 31.12.2024 but was filed after delay of 197 days, only on 16.7.2025. Other communications were also sent on the email of one Sri Sanjay Goyal who was Vice-President, Finance and Accounts of the assessee who left the organization on 22.8.2018 itself. Later, in 2023 a new email address was created but none of the communications from NFAC were sent on it though it was duly intimated during appellate proceedings. It was only on 24.06.2025 that the assessee came to know of passing the appellate order as it received a penalty order dated 24.06.2025 imposing penalty which was uploaded on the e-filing portal



of the predecessor company with a real time alert. It is submitted that there was sufficient and reasonable cause for the delay and there being no malafide intention, it deserved to be condoned.

4. The ld. DR has pleaded that the assessee was a regular defaulter as the appeal before the ld.CIT(A) was also delayed. Therefore, it deserves no condonation.

5. On careful consideration of the submissions of the assessee, we are of the considered opinion that the delay in filing of the present appeal was not intentional but due to unavoidable and sufficient cause. Such a bonafide mistake should have been condoned. Moreover, the ld.CIT(A) is also not justified in dismissing the appeal on the ground of delay without affording any opportunity to the assessee to explain it which is against the principles of natural justice and also amounts to taking away a substantive right of the assessee. In this connection, reliance could be placed on the landmark decision of hon'ble Supreme Court which inter alia held in **Collector, Land Acquisition v Mst. Katiji And Others- 167 ITR 471 (SC)** that *“ordinarily, a litigant does not stand to benefit by lodging an appeal late.....Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated....Any appeal or*



any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.... A litigant does not stand to benefit by resorting to delay. In fact, he runs serious risk.” We therefore, condone the delay setting aside the appellate order and also condone the delay in filing instant appeal before us.

6. Brief facts of the case are that M/s Monica Trading Pvt. Ltd. (hereinafter referred to as the predecessor) was a company engaged in the business of infrastructure leasing and trading in shares and securities. The predecessor filed return of income for the relevant on 22.09.2012 declaring a return of loss of Rs. 1,48,89,447/-. The assessment was completed under section 143(3) of the Act by accepting the returned loss. Subsequently, the AO issued a notice under section 148 of the Act on the predecessor directing it to file its return of income. Thereafter, he passed the reassessment order under section 147 read with section 144 of the Act making an addition of Rs. 14,63,19,000/- to the total income of the predecessor under section 69 of the Act and assessing the total income at Rs. 13,14,29,550/-.



7. Aggrieved by the reassessment order dated 23.12.2019, the predecessor filed an appeal before the Learned CIT(A) in Form No. 35 on 29.02.2020 along with an application seeking for condonation of delay in filing the said appeal. The Learned CIT(A), NFAC passed an order under section 250 on 08.10.2024 rejecting the condonation application and dismissing the appeal *in limine* as barred by limitation.

8. As regards merits of the case, the AR made a request to remand the entire matter to the file of the AO for necessary compliance and proper consideration of its submissions and supporting evidences. The Id.DR however, objected to such request stating that the assessee has not cited any cogent reason for non-compliance before both the authorities below.

9. We have duly perused the records from which it is noticed that in this case, the assessment order as also the appellate order were passed without proper adjudication of merits of the case as the assessee did not submit relevant documents and evidences in support of the issues involved before both the authorities. We are of the considered view that the entire matter needs proper consideration by the AO. As such, we are granting a final opportunity to the assessee to advance his arguments/submissions before the him so as to provide details in connection with the merits of the case and additional evidences, if any to support his contentions. Accordingly, in the substantial interest of



justice, we set aside the appellate order and restore the entire matter back to the AO for passing the assessment order *de novo* after allowing adequate opportunity of hearing to the assessee.

10. In the result, the appeal is **allowed for statistical purposes.**

Order pronounced in the open court on 16/10/2025.

Sd/-

SANDEEP GOSAIN

न्यायिकसदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकारसदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date .10.2025

Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.

