

IN THE INCOME TAX APPELLATE TRIBUNAL

JODHPUR BENCH, JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER

AND SHRI SUDHIR PAREEK, HON'BLE JUDICIAL MEMBER

ITA No. 152/Jodh/2024

(Assessment Year – 2021-22)

Harish Gaurav C/o Satyam SVG & Co 15-18, Diamond Plaza, Hiran Magari Sect 5, Udaipur (Raj) - 313001 PAN No. ADHPG 1265 F		ADIT CPC Bengaluru - 342006
Assessee by	Shri Yogesh Pokharna, C.A. (Physical)	
Revenue by	Shri K.C. Meena, Addl. CIT-DR (Virtual)	
Date of Hearing	13.01.2026.	
Date of Pronouncement	28.01.2026.	

ORDER

DR. MITHA LAL MEENA, A.M.:

The appeal by the assessee is directed against the order of the Ld. CIT(A), ADDL/JCIT (A)-1 Pune [hereinafter referred to as "the JCIT appeal"] dated 15.02.2024 with respect to assessment year 2021-22 challenging therein rejection of appeal for the delay of 63 days by the Ld. CIT(A) in violation of principles of natural justice and in deciding the issue of disallowance of exemption/deduction claimed u/s 80IA of the Act on merits of the case.

2. The Ld. Counsel for the assessee has submitted that the appellant has been suffering with prolonged diabetic history and hospitalized during that

period of three months to the passing of the impugned order. He has enclosed medical documents Page no.15 to 18 which are placed on record for reference. The appellant assessee has submitted before the Ld. CIT(A) the reason of hospitalisation of the appellant with documentary evidences, however, the Ld. CIT(A) did not appreciate the valid reasons beyond the control of the assessee which cause delay in filing the appeal and held the appeal invalid and non-maintainable as being out of time.

3. The Ld. AR has argued that filing of appeal is a procedural law and liberal view ought to be adopted by the Ld. CIT(A) while considering the request of the assessee for condonation of delay and adjudicate the appeal of the assessee on merits of the case in the interest of justice. In support, the assessee has placed reliance on the Hon'ble Supreme Court of India in the case of:

- *“West Bengal Vs. Administrator, Howrah dated 14th December, 1971 Equivalent citations: 1972 AIR 749, 1972 SCR(2) 874.*
- *“Senior Bhosale Estate (HUF) Vs. Asstt. CIT (2021) 127 taxmann.com 188 (Visakhapatnam) (Trib).”*

4. In our view, the assessee has genuine reason on medical grounds duly supported with the documentary evidence in the form of medical documents and discharge slips which ought to be addressed by the Ld. CIT(A) while

considering the prayer of the assessee for condonation of delay without prejudice to the valid reasons stated by the Ld. AR, the admitting the appeal in deciding the issues on merits of the case would have not have in any way caused prejudice to the interest of the revenue.

5. Accordingly, we consider it appropriate to condone the short delay of 63 days in filing appeal before the Ld. CIT(A) in the present case and hold that the Ld. CIT(A) was not justified in dismissing the appeal of the assessee as not maintainable.

6. In the present case, original return of income was filed on 17.02.2022 which was permitted under the law, thus the disallowance made by the CPC was beyond its domain. The Ld. AR has submitted computation of total income in ITR V and he argued that the disputed expenditure as indicated in the audit report has been taken into account in computing the total income as shown in the return of income.

7. Considering the factual matrix of the case, we consider it deem fit to restore the matter of disallowance of appellant's claim of deduction u/s 80IBA of Rs. 67,14,290/- to the file of the AO to examine afresh after providing an adequate opportunity of being heard to the assessee. The assessee shall cooperate in the fresh proceedings before the AO.

8. Accordingly, the impugned order is set aside and the matter is restored to the file of the Jurisdictional Assessing Officer (JAO) to examine and decide the claim of the assessee u/s 80IBA of the Income Tax Act in accordance with law.

9. The appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 28/01/2026.

Sd/-

**(SUDHIR PAREEK)
JUDICIAL MEMBER**

Dated : 28/01/2026.

Nimisha

Sd/-

**(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER**

True Copy

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

BY ORDER,

(Asstt. Registrar),
ITAT, Jodhpur