



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

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.274/PUN/2026

Assessment Year : 2018-19

Anil Kumarsaheb Bagane R/8, Vishal Garden, Shikrapur Road, Near Register Office, Chakan, Pune-410501, Maharashtra PAN: AUWPB6988Q	Vs.	Income Tax Officer Ward 10(1), Pune
Appellant		Respondent

Assessee by	:	Shri Pritesh Raka & Shri Bhavesh Lodha
Revenue by	:	Shri Ambarnath Khule (through virtual)
Date of hearing	:	16.03.2026
Date of pronouncement	:	17.04.2026

**आदेश / ORDER**

The captioned appeal at the instance of assessee pertaining to A.Y. 2018-19 is directed against the order dated 29.11.2024 framed by National Faceless Appeal Centre, Delhi (NFAC) arising out of Assessment Order dated 31.03.2021 passed u/s. 143(3) r.w.s143(3A) & 143(3B) of the Income Tax Act, 1961 (in short 'the Act').

2. Registry has pointed out that the appeal is barred by limitation as the assessee has filed the appeal before this Tribunal with a delay of 377 days. Assessee has filed an Affidavit explaining the delay and the contents of the same are as follows :

*"1. That the appeal against the order dated 29/11/2024 passed by the learned CIT(A) was required to be filed on or before 28/01/2025. However, the appellant was unable to file the appeal within the prescribed limitation period as the fact of*



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*dismissal of the earlier appeal was not within the knowledge of the appellant.*

*2. That the appellant had initially engaged a consultant to represent him in the proceedings before the Assessing Officer. The said consultant filed an appeal before CIT(A) but failed to file a proper appeal before the learned CIT(A), nor did he provide adequate or appropriate guidance regarding the further appellate remedies available. The appellant, being a layperson with no specialized knowledge or understanding of income tax laws or procedures, reposed full faith and trust in the said consultant and was completely dependent on his advice and actions.*

*3. That the order passed by the learned CIT(A) was communicated solely through electronic mail. However, due to lack of digital literacy, and non-regular access to electronic communication channels, the said order could not be accessed or acted upon by the appellant. Consequently, the appellant remained unaware of the appellate order and could not take timely steps to prefer a further appeal.*

*4. That after a considerable lapse of time and in the absence of any communication or meaningful updates from the previous consultant, the appellant engaged a new consultant for assistance. Upon reviewing the case file and related documents, the newly appointed consultant discovered that no second appeal had been filed before this Hon'ble Tribunal. The appellant was shocked and distressed to learn of this omission and, without any further delay, initiated necessary steps to file the present appeal.*

*5. That the appellant came to know about the dismissal of the first appeal only upon engaging new tax consultant. It was only at that point that the appellant became aware of the adverse order passed by the learned CIT(A). Thereafter, the appellant promptly took steps to file the present appeal on 20/01/2026, resulting in a delay of 356 days.*

*6. That the delay in filing the appeal is neither intentional nor deliberate. It has occurred solely due to the genuine, unavoidable, and bonafide circumstances as narrated above. The appellant has at all times acted in good faith and has made sincere efforts to pursue the matter diligently upon becoming aware of the correct facts and legal position.:*

3. Considering the above averments made by the assessee and also adopting justice oriented approach, I find that the delay is not intentional and therefore placing reliance on the judgments of Hon'ble Apex Court in the case of *Collector,*



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*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 377 days before this Tribunal and admit the appeal for adjudication.*

4. The sole grievance of the assessee relates to addition of Rs.42,20,922/- which has been received by the assessee as an Ex-gratia payment and claimed it to be capital receipt in nature.

5. At the outset, ld. Counsel for the assessee submitted that during the year the assessee received a Voluntary Ex-gratia payment from its employer M/s. Racold Thermo Private limited at Rs.42,20,922/- which has been claimed as a Capital receipt not liable to be taxed. However, ld. Assessing Officer has denied the claim. He submitted that similar type of payments from the very same employer were received in the case of other assesses and this Hon'ble Tribunal has decided in favour of the assessee in the case of *Mahadeo Ahilaji Vir Vs. ACIT – ITA No.1532/PUN/2025 order dated 29.08.2025* and in the case of *Mahadev Vasant Dhangekar Vs. ACIT – ITA No.472/PUN/2022 order dated 03.04.2023* consistently holding that the said Ex-gratia payment is a Capital receipt not liable to be taxed.

6. On the other hand, ld. DR supported the orders of both the lower authorities.

7. I have heard the rival submissions and perused the record placed before me. I observe that the assessee is



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employed with M/s. Racold Thermo Private limited. For the year under consideration, i.e. A.Y. 2018-19, the assessee declared income of Rs.14,820/- in the return furnished on 31.08.2018. In this return, assessee claimed exemption u/s.10(10C) of the Act at Rs.5.00 lakh and u/s.10(10) at Rs.79,018/- and Ex-gratia payment of Rs.42,20,922/- is claimed as Capital receipt and the employer had deducted the tax at source on the alleged Ex-gratia payment of Rs.42,20,922/-. Ld. Assessing Officer has allowed the exemption u/s.10(10C) and u/s.10(10) but so far as Ex-gratia payment is concerned, ld. Assessing Officer did not allow the claim of Capital receipt.

8. Before me, ld. Counsel for the assessee has referred to the letter of employer dated 16.02.2021 certifying that the alleged Ex-gratia payment has been given to the assessee on the sweet will of the employer company for his quality of integrity and commitment in performance of his duties for the entire tenure of his service with the company. I note that the certificate issued by the employer company is dated 16.02.2021 but the same was not placed before the Assessing Officer during the course of proceedings completed on 31.03.2021. Even during the course of appellate proceedings before ld.CIT(A), assessee failed to get any opportunity and could not furnish the documents and the same has been filed for the first time before this Tribunal. It is also not borne out from the record as to whether the employer company has claimed the alleged payment to the assessee as an expenditure or it has been reduced from the Reserves and Surplus. The reason for the



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same is that the company has deducted the tax at source on the alleged Ex-gratia payment but the assessee has claimed it as a Capital receipt and further claimed to revise the tax deducted at source.

9. Under these given facts and circumstances, I deem it appropriate to restore the issues raised in the instant appeal to the file of Id. Jurisdictional Assessing Officer before whom the assessee shall furnish the required information and also place the copy of the decision of this Tribunal relied by Id. Counsel for the assessee referred (*supra*). I further direct the Id. JAO to examine the issue *denovo* in light of the settled judicial precedents and also if necessary call for a remand report from the employer company about the status of claiming the alleged Ex-gratia payment as an expenditure or a Capital Expenditure and then decide in accordance with law. Impugned order is set aside and Grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced on this 17<sup>th</sup> day of April, 2026.

Sd/-  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 17<sup>th</sup> April, 2026.

Satish



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

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar,  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.