

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.1525/Bang/2024
Assessment Year: 2021-22

Home of Peoples Empowerment Foundation Rep. by its Principal Officer/Trustee Sri Deepak M., S/o Sri Muniraju M. No.132, Byatarayanadoddi Bannerghatta SO Bangalore South Bangalore 560 083 Karnataka PAN NO :AAATH8594C	Vs.	ITO (Exemptions) Ward-1 Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Ms. Aruna Bhatt, A.R.
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel for Department.

Date of Hearing	:	04.11.2024
Date of Pronouncement	:	04.11.2024

O R D E R

PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:

The present appeal of the assessee is arising from the order of ld. CIT(A) dated 27.6.2024 and relates to assessment year 2021-22 having DIN & Order No.ITBA/APL/S/250/2024-25/1066132284(1).

2. The assessee has raised three grounds of appeal. However, the only issue which is agitated before us is whether the ld. CIT(A) is correct in law in dismissing the appeal of the assessee without condoning the delay of 205 days.

2.1 At the outset, the ld. Counsel for the assessee drawn the attention of the Bench towards the impugned order of ld. CIT(A) and pointed out that the delay has happened on account of illness of the trustee who was advised for 2 to 3 months' rest by the doctors at the relevant times. The ld. Counsel for the assessee further pointed out that the ld. CIT(A) is not correct in discarding the submissions of the assessee vis-à-vis condonation of delay. The ld. Counsel for the assessee has also filed a medical certificate dated 10.9.2022 issued by Sri Sai Shreshta Hospital, Bannerghatta Post, Bangalore, which is taken on record. Pointing out towards the merits the Ld Counsel for the assessee explain that it is case where the benefits of section 11 and 12 have been denied to the assessee on the ground that the assessee has not filed the Form Number -10B. It has further been pointed out that assessee's prayer for condoning the delay in filing Form 10B has already been condoned by the CBDT.

3. The ld. D.R. relied upon the order of authorities below.

4. We have heard the rival submissions and perused the materials available on record. After examining the medical certificate, we are of the view that the ld. CIT(A) ought to have condoned the delay of 205 days and could have condoned the delay. Be that as it may be, it is further been observed by us that in this case, the ld. CPC has denied the benefit of section 11 & 12 to the assessee, as the assessee failed to annex the Form No.10B. The assessee has filed a petition u/s 119(2)(b) of the Income Tax Act, 1961 (in short "The Act") before the CBDT seeking condonation of delay in filing the Form No.10B. The CBDT vide its order dated 30.10.2024 has condoned the delay in filing Form No.10B and directed the Jurisdictional Assessing Officer (JAO) to consider the claim of the assessee. Therefore, we are of the view that though the present appeal become infructuous, in view of the later developments

i.e directions of CBDT occurred in the case, yet we are deciding the appeal and remitting the matter to the file of AO for examining the claim of the assessee as per directions of CBDT.

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

Order pronounced in the open court on 4th Nov, 2024

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bangalore,
Dated 4th Nov, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**