



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

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

आयकर अपील सं. / ITA No.2381/PUN/2024

Assessment Year : 2014-15

Sujit Arun Taware, Krishna Building, Near Kheradkar Petrol Pump, Chaitanyanagar, Sangli – 416 416 Maharashtra PAN : AMJPT2360H	Vs.	ITO, Ward-1, Sangli
Appellant		Respondent

Assessee by	:	Shri Umeshkumar Madhukar Mali
Revenue by	:	Shri Arvind Desai
Date of hearing	:	08.01.2025
Date of pronouncement	:	21.01.2025

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

This appeal filed by the assessee pertaining to the Assessment Year 2014-15 is directed against the order dated 13.08.2024 passed by the National Faceless Appeal Centre, Delhi passed u/s.250 of the Income-tax act, 1961 (in short 'the



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Act') which inturn is arising out of the Assessment order dated 29.03.2022 passed u/s.147 r.w.s.144 r.w.s.144B of the Act.

2. At the outset, we find the appeal is time barred by limitation by 38 days. The assessee has filed an affidavit stating that due to dispute between the previous tax consultant and change of new counsel, the appeal could not be filed in time. The delay is not intentional and there is no negligence in preferring the appeal. On going through the averments made in the affidavit and in the absence of anything contrary, we are satisfied that there was '*reasonable cause*' on the part of the assessee which prevented him in filing the appeal within the stipulated time. Therefore, we condone the delay of 38 days in filing the appeal in the larger interest of justice and proceed for adjudication of appeal on merits.

3. Facts in brief are that the assessee is an individual who has not filed the return of income for the year under consideration. Based on the information available with the Department that the assessee deposited cash of Rs.35,30,000/- and purchased immovable property at Rs.2,04,00,000/-, the Assessing Officer opined that income escaped assessment to tax. Notices u/s.148/142(1) of the Act was issued to the assessee to which there was no compliance. In the circumstances, the Assessing Officer completed the assessment



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u/s.147 r.w.s.144 of the Act making addition of the said sum of Rs.2,39,30,000/- u/s.68 of the Act.

4. Aggrieved assessee preferred appeal before the ld.CIT(A) with a delay of about 4 months and the ld.CIT(A) vide impugned order dismissed the appeal *in limine*, without condoning the delay by observing as under :

“8.9.7 From the above decisions it becomes clear that in the case of condonation of delay where the appeal was filed beyond the limitation of period, the courts are empowered to condone the delay, provided that the Appellant can prove his claim of inability to file appeal within the prescribed period. Litigant must be able to demonstrate that there was "sufficient cause" which obstructed his action to file Appeal beyond the prescribed time limit. The law of limitation is found upon the maxims "Interest Reipublicae Ut Sit FinisLitium" that litigation must come to an end in the interest of society as a whole and "vigilantibus non dormientibus Jura subveniunt" that the law assists those that are vigilant with their rights, and not those that sleep thereupon. The law of limitation in India identifies the need for limiting litigation by striking a balance between the interests of the state and the litigant.

8.9.8 The Single Judge bench of the Hon'ble Madras HC, while exercising writ jurisdiction in Kathiravan Pipes Pvt. Ltd., v. CESTAT, 2007 [5] STR 9 (Mad.) has observed that the period of limitation prescribed is not for destruction of a statutory right but only to give finality without protracting the matter endlessly. Therefore, delay in filing of appeal cannot be condoned.

8. The reasons submitted by the appellant are held to be not bonafied so as to condone the delay. In view of the above, the delay is not condoned and the appeal is dismissed.”



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5. Now the aggrieved assessee is in appeal before the Tribunal.

6. Before us, ld. Counsel for the assessee firstly submitted there was delay in filing the appeal before the ld.CIT(A) which it did not condone and dismissed the appeal *in limine*. The ld.CIT(A) has not condoned the delay without specifying reasons. On merits, ld. Counsel for the assessee referring to paper book submitted that the reopening has been carried out by the AO on the basis of information received from the Sub-Registrar. Infact, the assessee was chairman of the housing cooperative society and the society has purchased the land at a cost of Rs.1.02 crore. The property in question is purchased by the society and not by the assessee. The assessee being chairman of the society gave his PAN number while purchasing the land on behalf of the society. Ld. AO carried out the proceedings without verifying the purchase deed and also made the addition u/s.68 of the act whereas the issue is regarding the purchase of property. Further, ld. AO made the addition for double the amount of purchase for which no plausible reason has been given. Therefore, it is prayed that the issues on merit be restored to the file of Jurisdictional Assessing Officer.



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7. On the other hand, ld. Departmental Representative vehemently argued supporting the orders of the lower authorities.

8. We have heard the rival parties and perused the record placed before us. It is an admitted position that the assessee has neither participated in the proceedings before the AO or even before the ld.CIT(A) which led to passing the orders *ex parte*. From the perusal of the impugned order, prima-facie it appears that neither the assessee has attributed any reasons for delay nor the ld.CIT(A) gave any reasoned finding u/s.250(6) of the Act while not condoning the delay of about 4 months. In this context, we would like to quote the judgment of Hon'ble Supreme Court in the case of *Collector Land Acquisition Vs. MST Katiji (1987) 167 ITR 471 SC* . In the said Judgment, their Lordships have given certain principles based on which, the issue with regard to the delay can be approached and the said portion of the order of the Judgment cited supra is reproduced hereunder:

1. *Ordinarily, a litigant does not stand to benefit by lodging an appeal late.*
2. *Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.*



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3. *Every day's delay must be explained does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational, common sense and pragmatic manner.*

4. *When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*

5. *There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.*

6. *It must be grasped that the judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.*

In light of above, we are of the opinion that delay in the instant appeal deserves to be condoned. We therefore condone the delay before the ld.CIT(A). In view thereof, without dwelling into merits of the case and considering the submissions of ld. Counsel for the assessee, the issues on merit are being remitted to the file of Jurisdictional Assessing Officer for *denovo* adjudication. The assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause, failing which the ld. AO shall be free to proceed in accordance with law. Finding of the ld. CIT(A) is set aside and Effective grounds of appeal raised by the assessee are allowed for statistical purposes.



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

Order pronounced on this 21st day of January, 2025.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 21st January, 2025.
Satish

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, “B” बेंच,
पुणे / DR, ITAT, “B” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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