

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

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT AND
SHRI B. R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.602/Bang/2021
Assessment Year :2017-18

Shri. Omprakash Pandey, No.06, Sy. No.35, Basavanpura Main Road, Bhattarahalli, Bengaluru-560 049. PAN : AZWPP 4082 C	Vs.	ITO, Ward – 4(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Siddesh S Gaddi, CA
Revenue by	:	Shri. Sankar Ganesh, JCIT(DR)(ITAT), Bengaluru.

Date of hearing	:	14.03.2022
Date of Pronouncement	:	16.03.2022

ORDER

Per N. V. Vasudevan, Vice President :

This is an appeal by the assessee against order dated 16.09.2021 of National Faceless Appeal Centre (NFAC), Delhi, relating to Assessment Year 2017-18.

2. The assessee is an individual. The assessee’s assessment for Assessment Year 2017-18 was concluded under section 144 of the Income Tax Act, 1961 (hereinafter called ‘the Act’) (best judgment assessment) by an order dated 16.09.2019. Against the said order, the assessee filed an appeal before the CIT(A). There was a delay of 238 days in filing the appeal before the CIT(A). The assessee filed an application for condonation of delay on the ground that due to old age and lack of familiarity with the e-proceedings and due to kidney

complications, there was a delay in filing the appeal. This explanation was not accepted by the CIT(A). The impugned order of the AO was served on the assessee on 16.09.2019. The appeal should have been filed on 16.10.2019. The CIT(A) found that the medical procedure was undergone by the assessee in July, 2019 and therefore the plea of the assessee that due to medical complications, the appeal could not be filed in time is not acceptable.

3. We have heard the rival submissions. The assessee is aged about 71 years. The appeal before the CIT(A) was filed on 15.10.2020 electronically. Due to Covid-19 pandemic, the Hon'ble Supreme Court had directed exclusion of period from 15.03.2020. If this period is excluded, the delay has to be explained only between 15.11.2019 and 14.03.2020. The fact that the assessee had some medical condition and was hospitalized on 06.07.2019 and discharged on 10.07.2019 is not disputed. In the circumstances, it cannot be said that the delay was not due to reasonable cause. Considering the age of the assessee and his medical condition, the CIT(A) ought to have taken a lenient view of the matter. It is possible that even after discharge from the hospital, the assessee could not have sufficient good health to meet the Counsel and file the appeal. Considering these circumstances, we condone the delay in filing the appeal before the CIT(A) and direct the CIT(A) to decide the appeal of the assessee on merits after affording opportunity of being heard to the assessee.

4. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(B. R. BASKARAN)
Accountant Member

Sd/-

(N. V. VASUDEVAN)
Vice President

Bangalore.

Dated: 17.03.2022.

/NS/*

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| 1. Appellants | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.