

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
BENCH 'B', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. KUL BHARAT, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.6610/Del/2018  
(Assessment Year : 2009-10)

Chaudhary Charan Singh University C/o Vinod Kumar Goel, 282, Boundary Road, Civil Lines, Meerut, Uttar Pradesh  PAN : AAAGC 0339 P	Vs.	ITO (TDS & Survey) Meerut
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Assessee by	--None--
Revenue by	Ms. Rinku Singh, Sr. D.R.

Date of hearing:	02.09.2021
Date of Pronouncement:	02.09.2021

**ORDER**

**PER ANIL CHATURVEDI, AM :**

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-Meerut dated 21.05.2018 for Assessment Years 2009-10.

2. Assessee has raised the following grounds of appeal:

“1. That CIT(A) is in error not condone the delay which was due to the counsel of the assessee, who suffered spinal injury for

*period more than six months and finally operated therefore, order passed by CIT(A), Meerut to refuse condone the delay is against the principle of natural justice.*

2. *That the AO has pointed out short payment without considering the facts that deduce are assessed to tax and filing their income tax return. Therefore, any short payment he has paid tax. CIT(A) is in error not to decide the ground on merit.*
3. *That the order u/s 154 dated 01.07.2016 was received by the assessee late because in the University there are many changes in incumbent. CIT(A) is in error not to decide the ground on merit.*
4. *That the assessee has right to add, delete or modify any grounds during the appeal proceeding.”*

3. On the date of hearing none appeared on behalf of the assessee nor any adjournment application was filed on its behalf though the notice of hearing was issued to the assessee. We therefore proceed to dispose of the appeal *ex parte* qua the assessee after considering the material on record and hearing the DR.

4. Before us, Learned DR supported the order of lower authorities.

5. We have heard Learned DR and perused the material on record. The perusal of CIT(A) order reveals that assessee had filed appeal before CIT(A) against the order dated 01.07.2016 passed by AO u/s 154 of the Act. There was delay in filing the appeal before CIT(A) and the delay in filing the appeal was stated to be medical issues of the Learned Counsel. Learned CIT(A) did not condone the delay in filing the appeal and thereby dismissed the appeal of assessee without considering the merits of the case.

6. We find that Hon'ble Supreme Court in the case of N. Balakrishnan vs. M. Krishnamurthy (1998) 70 SCC 123 has held that as long as the conduct of the applicant does not, on the whole, warrant to castigate him as an irresponsible litigant, generally, the delay be condoned. It has further held that rules of limitation are not meant to destroy the right of parties but they are meant to see that parties do not resort to dilatory tactics. It has further held that in every case of delay there can be some lapse on the part of litigant concerned, however, that alone is not enough to turn down his plea and to shut the door against him. Further it is a settled law that in matters of condonation of delay, a highly pedantic approach should be eschewed and a justice oriented approach should be adopted and a party should not be made to suffer on account of technicalities. Before us, no material has been placed by Revenue to demonstrate that the delay in filing the appeal before CIT(A) by the assessee was due to some *malafide* intention on its part. In view of the aforesaid facts and in view of the well settled principle of natural justice that sufficient opportunity of hearing should be afforded to parties and no party should be condemned unheard, we are of the view that the delay in filing the appeal before CIT(A) needs to be condoned. We accordingly condone the delay. Further, since the CIT(A) has not decided the appeal on merits, we are of the view that one more opportunity be granted to the assessee to present its case. We therefore restore the matter back to the file of CIT(A) to decide the issue on merits afresh in accordance with law. Needless to state that CIT(A) shall grant adequate opportunity of hearing to both

the parties. **Thus the grounds of assessee are allowed for statistical purpose.**

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

**Order pronounced in the open court on 02.09.2021**

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*Date:- 02.09.2021*

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**Sd/-**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI