

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

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.646/Bang/2019
Assessment Year: 2015-16

Vavia Technologies Pvt. Ltd. No.1357, Ground Floor, 9 <sup>th</sup> Cross Road Arvind Marg, 1 <sup>st</sup> Phase J.P. Nagar Bangalore-560 078  <b>PAN NO : AACCV9066C</b>	<b>Vs.</b>	ITO Ward-7(1)(3) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	N O N E
<b>Respondent by</b>	:	Shri Priyadarshi Mishra, D.R.

<b>Date of Hearing</b>	:	22.10.2020
<b>Date of Pronouncement</b>	:	22.10.2020

**O R D E R**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

The assessee has filed this appeal challenging the order dated 08-02-2019 passed by Ld CIT(A)-7, Bengaluru and it relates to the assessment year 2015-16.

2. None appeared on behalf of the assessee even though the representative of the assessee has taken adjournment on earlier occasion. Hence we proceed to dispose of the appeal ex-parte, without hearing the assessee.

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3. We heard Ld D.R and perused the record. We notice that there was a delay of 37 days in filing appeal before Ld CIT(A). However, according to the assessee, the delay was only 18 days. Be that as it may, we notice that the Ld CIT(A) has dismissed the appeal of the assessee without condoning the delay. We notice that the assessee has explained before Ld CIT(A) that it was seeking professional advice/opinion on the correctness of the order and the permissible legal remedies to redress the grievance resulting in an unintended delay of 18 days.

4. We notice that the assessee has furnished explanation for the delay in filing appeal before Ld CIT(A). In Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and others (167 ITR 471)SC), the Hon'ble Supreme Court has observed as under:-

*“the legislature has conferred power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on merits. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice, for that is the life-purpose for the existence of the institution of courts. The learned Judges emphasized on adoption of a liberal approach while dealing with the applications for condonation of delay as ordinarily a litigant does not stand to benefit by lodging an appeal late and refusal to condone delay can result in a meritorious matter being thrown out at the very threshold and the cause of justice being defeated. It was stressed that there should not be a pedantic approach but the doctrine that is to be kept in mind is that the matter has to be dealt with in a rational commonsense pragmatic manner and cause of substantial justice deserves to be preferred over the technical considerations. It was also ruled that there is no presumption that delay is occasioned*

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*deliberately or on account of culpable negligence and that the courts are not supposed to legalise injustice on technical grounds as it is the duty of the court to remove injustice. In the said case the Division Bench observed that the State which represents the collective cause of the community does not deserve a litigant-non grata status and the courts are required to be informed with the spirit and philosophy of the provision in the course of interpretation of the expression “sufficient cause”.*

5. The principles that emanate from the above said decisions are that, in the matter of condonation of delay in filing appeals beyond the limitation period, the courts are empowered to condone the delay, provided the litigant is able to demonstrate that there was “sufficient cause” in preferring appeal beyond the limitation period. The Courts have also held that the expression “sufficient cause” should receive liberal construction so as to advance substantial justice. Hence the question of condonation of delay is a factual matter and the result would depend upon the facts of the case and the cause shown by the assessee for the delay. It has also been opined that generally delays in preferring appeals are required to be condoned in the interest of justice, where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party seeking condonation of the delay.

6. From the explanations furnished by the assessee, we are of the view that it cannot be said that there was gross negligence or deliberate inaction or lack of bonafides in it. Accordingly, in the interest of natural justice, we are of the view that the delay in filing appeal before Ld CIT(A) deserves to be condoned. Accordingly, we condone the delay in filing appeal before Ld CIT(A).

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7. Since the Ld CIT(A) has not disposed the grounds urged in the appeal, we restore the appeal to his file for adjudicating all the grounds.

8. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 22<sup>nd</sup> Oct, 2020

**Sd/-**  
**(Beena Pillai)**  
**Judicial Member**

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

Bangalore,  
Dated 22<sup>nd</sup> Oct, 2020.  
VG/SPS

Copy to:

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

By order

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