

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER  
AND  
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.7646/Del/2017  
Assessment Year: 2009-10

UCO Bank, Patiala House Branch, Patiala House Court, Tilak Marg, Near India Gate, New Delhi	<b>Vs.</b>	JCIT, Range-78, New Delhi
<b>PAN :DELU02819RF</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Yash Pal Rawla, CA
Respondent by	Sh. H.K. Chaudhary, CIT(DR)

Date of hearing	15.03.2022
Date of pronouncement	17.03.2022

**ORDER**

**PER SAKTIJIT DEY, JM:**

Captioned appeal has been filed by the assessee assailing the order dated 04.08.2017 passed by learned Commissioner of Income Tax (Appeals)-41, New Delhi, confirming the penalty imposed under section 272A(2)(k) of the Income-tax Act, 1961 (in short 'the Act') for the assessment year 2008-09.

**2.** Briefly the facts are, based on information received from internal sources that some public sector banks have paid interest on FDRs beyond the threshold limit without deducting tax at source, the Assessing Officer initiated proceeding under section 201(1)/201(1A) of the Act. After calling for necessary details and verifying them, the Assessing Officer, though, passed order under section 201(1)/201(1A) without raising any demand on account of TDS liability, however, noticing that the assessee failed to furnish the quarterly TDS statements within the time prescribed under section 200(3) of the Act, initiated proceeding for imposition of penalty under section 272A(2)(k) of the Act alleging that the assessee failed to file any reply with supporting evidences to establish that there was reasonable cause for late filing of the TDS statements. The Assessing Officer proceeded to impose penalty of Rs.12,27,000/- for different quarters falling in financial year 2008-09. Against the penalty order so passed, assessee preferred an appeal before learned Commissioner (Appeals).

**3.** In course of appellate proceeding, learned Commissioner (Appeals) noticed that the appeal filed by the assessee was belated. On perusing the affidavit seeking condonation of delay, he observed, though, the assessee has stated that there was delay

of 33 days, but the actual delay was more than 80 days. Therefore, he observed that the assessee, having failed to satisfactorily explain the cause of delay, the appeal cannot be entertained.

4. Further, he held that the grounds raised by the assessee do not reveal the actual relief sought. Thus, on the reasoning that the grounds raised by the assessee are not clear and the delay was not satisfactorily explained, learned Commissioner (Appeals) dismissed assessee's appeal in limine without going into the merits.

5. We have considered rival submissions and perused the materials on record. Though, it is not clear from the materials on record, what explanation the assessee filed before the Assessing Officer to explain the delay in filing the TDS statements, however, before learned Commissioner (Appeals), the assessee has furnished detailed submission, explaining the reason for delay in filing the TDS statements. On perusal of the submissions made before learned Commissioner (Appeals), it is noticed that the employees of the assessee were not well acquainted with the procedure of e-filing of TDS return which was made effective from assessment year 2008-09. Assessee had submitted, the

employees were still at learning stage, as far as computerized system of filing is concerned, since, the bank in the near past had switched over itself from old system to CBS system and the employees are getting acquainted with the new banking software. In our view, the aforesaid submissions made by the assessee constitute a reasonable explanation under section 273B of the Act. Therefore, there is no justifiable reason for imposing penalty, merely, because there is delay in furnishing the TDS quarterly statements. Moreover, learned Commissioner (Appeals) has not gone into the merits of the issue and dismissed assessee's appeal in limine. Even, accepting that assessee's version of delay is not correct and actual delay is of 80 days, in our view, such delay not being fatal should have been condoned as the assessee has made out a case for condonation of delay.

**6.** Further, when the appeal filed by the assessee is against the imposition of penalty under section 272A(2)(k), we fail to understand what more clarification was required by learned Commissioner (Appeals) regarding the nature of relief sought by the assessee. In view of the aforesaid, we delete the penalty imposed of Rs.12,27,000/- under section 272A(2)(k) of the Act. Grounds are allowed.

7. In the result, the appeal is allowed.

***Order pronounced in the open court on 17<sup>th</sup> March, 2022***

***Sd/-***  
**(DR. B.R.R. KUMAR)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Dated: 17<sup>th</sup> March, 2022.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi