

IN THE INCOME TAX APPELLATE TRIBUNAL
NEW DELHI BENCH "A": NEW DELHI

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER
AND SHRI L.P. SAHU, ACCOUNTANT MEMBER

ITA No.69/DEL/2008
Assessment year : 1998-99

The Income Tax Officer, Ward 2(1), New Delhi.	Vs.	M/s. Ardee Business Centre Pvt. Ltd., 16 th Floor, Dr. Gopal Dass Bhawan, 28, Barakhamba Road, New Delhi – 110 001.
APPELLANT		RESPONDENT

Appellant by	:	Shri S. Kumar, DR
Respondent by	:	None

Date of hearing	:	22.09.2016
Date of Pronouncement	:	23.09.2016

ORDER

Per Sunil Kumar Yadav, Judicial Member

This appeal is preferred by the revenue against the order of the
CIT(Appeals) *inter alia* on the following grounds:-

“1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting addition of Rs.1,24,86,124/- made in terms of section 2(22)(e) ignoring the fact that the assessee company is holding more than 10% of the share holding of M/s. Gopal Dass Estate and Housing Pvt. Ltd.

2. CIT(A) has erred on facts and in law in passing the order u/s. 154 dated 20.01.2003 because having taken a well deliberated view on the issue of application of provisions of Section 2(22)(e), he could not have changed or reversed his decision u/s. 154, meant only for rectifying the mistakes apparent from record.

3. The Appellant craves leave for reserving the right to amend, modify, alter, add or forgo any ground(s) of appeal at any time before or during the hearing of this appeal.”

2. During the course of hearing, it has been brought to the notice that this appeal is filed late by 4 years 264 days by the revenue. On perusal of the record, we do not find any application for condonation of delay. During the course of hearing, a specific query was raised to the Id. DR with regard to delay in filing of the appeal. The Id. DR could not justify the delay in filing of the appeal.

3. As per provisions of section 253(3) of the Of the Income-tax Act, 1961 [“the Act”], the appeal shall be filed within 60 days from the date on which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or Commissioner, as the case may be.

4. But in the instant case, the appeal has been filed late by 4 years 264 days and for the delay, no justification has been furnished. Under these circumstances, we have no option but to dismiss the appeal being barred by limitation.

5. In the result, the appeal of the revenue is dismissed.

Pronounced in the open court on this 23rd day of September 2016.

Sd/-

(L.P. SAHU)
Accountant Member

Sd/-

(SUNIL KUMAR YADAV)
Judicial Member

New Delhi,
Dated, the 23rd September, 2016.
/D S/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, New Delhi.

Assistant Registrar,
ITAT, New Delhi.