

**IN THE IN TAX APPELLATE TRIBUNAL
DIVISION BENCH 'B', CHANDIGARH**

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI B.R.R.KUMAR, ACCOUNTANT MEMBER

ITA Nos.1709 to 1712/Chd/2017
(Assessment Years : 2007-08 to 2010-11)

The D.C.I.T.,
Circle-1(Exemptions),
Chandigarh.

Vs.

M/s Maharawal Khewaji Trust,
Moti Mahal, The Fort,
Chandigarh.

(Appellant)

PAN: AAATM2875R
(Respondent)

Appellant by : Shri Manjit Singh, Sr. DR
Respondent by : S/Shri Lalit Mohan Gupta
& J.K. Gupta, Adv.

Date of hearing :09.05.2018
Date of Pronouncement :15.06.2018

ORDER

Per Sanjay Garg, Judicial Member :

All the above appeals have been preferred by the Revenue against the separate orders of Ld. Commissioner of Income Tax(Appeals), Bathinda (hereinafter referred to as 'Ld.CIT(Appeals)') all dated 25.8.2015 passed u/s 250(6) of the Income Tax Act, 1961 (in short 'the Act') in Appeal Nos.140 to 143-IT/CIT(A)/BTI/14-15 relating to assessment years 2007-08, 2008-09, 2009-10 and 2010-11 respectively

2. Since identical issues have been raised in all the appeals, the same were heard together and are being disposed off by this consolidated order.

3. In these appeals the Revenue has agitated the action of the CIT(Appeals) in deleting the penalty levied by the Assessing Officer u/s 271(1)(c) of the Act. At the outset, the Ld. counsel for assessee has submitted that the appeals of

the Revenue are time barred by almost two years. He, in this respect, invited our attention to the impugned orders of the CIT(Appeals) which are dated 25.8.2015 and he has further submitted that the Revenue has filed present appeals on 27.12.2017. The limitation period prescribed under the Act for preferring the appeal against the order of the CIT(Appeals) in this Tribunal is 60 days from the date of communication of the order to the assessee or to the Principal Commissioner or Commissioner, as the case may be. The Ld. counsel for assessee, therefore, has further submitted that the Principal Commissioner of Income Tax, Bathinda would have transferred the impugned orders of the CIT(Appeals), Bathinda on or about 9.9.2015 to the Commissioner of Income Tax, Chandigarh for necessary action at his end which would have received by him on or about 16.9.2015. The Ld. counsel for assessee has further submitted that even the assessee had also filed appeals against the impugned orders of the CIT(Appeals) before Amritsar Bench of the Tribunal, which were decided vide order dated 7.2.2017 and which were received by the Principal Commissioner of Income Tax, Bathinda, who further transferred the same to the Commissioner of Income Tax, Chandigarh by 28.2.2017, whereas the appeals in question have been filed on 27.12.2017 which are apparently time barred. The Ld. counsel for assessee has further submitted that even otherwise, the jurisdiction lies with the Amritsar Bench of the Tribunal and not with the

Chandigarh Bench of the Tribunal. Hence, the appeals are not maintainable before this Bench.

4. The Ld. DR, on the other hand, has submitted that the cases of the assessee earlier were assessed by Income Tax Officer-III, Ferozpur. However, the jurisdiction of the cases for the above mentioned assessment years had been transferred to the office of the DCIT(Exemptions), Chandigarh in pursuance of the orders of the Addl. CIT (Exemptions), Range-I, Chandigarh dated 15.11.2014. Therefore, the DCIT, Chandigarh has preferred the present appeals. Further it has been pleaded that the DCIT, Chandigarh did not receive the orders of the Commissioner of Income Tax, Bathinda. It was only when the orders of the Amritsar Bench of the Tribunal dated 7.2.2017 were received and it was found that the CIT(Appeals) has given relief to the assessee on the main issue by way of deleting the penalty levied u/s 271(1)(c) of the Act. A letter was written to the CIT(Appeals), Bathinda to send the copy of the orders so that further decision regarding filing of further appeal may be taken. Thereafter, receiving copy of the impugned orders of the CIT(Appeals), the present appeals have been preferred.

5. We have considered the rival submissions. In our view, the appeals of the Revenue are apparently time barred by two years. The assessee had also filed the appeals against the impugned orders of the Amritsar Bench of the Tribunal which were heard on 28.11.2016 and were decided on

7.2.2017 vide consolidated order in ITA Nos.547 to 550(Asr)/2015. The Department was duly represented through Ld. DR Shri Vedpal Singh. The above facts clearly show that the Department was in knowledge for the impugned orders of the CIT(Appeals). Moreover, the Memorandum of appeals alongwith relevant documents were also sent to the respondent by the Tribunal while serving the notice of the appeals. Upon service of such notice, representative of the Department duly appeared before the Tribunal and argued the matter in detail. At that time, no objection had been raised by the D.R. that copy of the impugned orders had not been received by the Department. Moreover, a copy of the order of the CIT(Appeals) was very much available on the file and after going through the same, the Department had contested the issue raised by the assessee in relation to the adverse findings given by the CIT(Appeals), against which the assessee had preferred an appeal.

6. In view of this, the internal correspondence with the officials of the Department, in no way, can be a ground to extend the limitation period or to condone the delay in filing the appeals. Even, no application for condonation of delay has been filed by the Department. Under the circumstances, without going to the question of territorial jurisdiction the appeals being barred by limitation are hereby dismissed.

7. In the result, all the appeals filed by the Revenue are dismissed.

Order pronounced in the open court on 15.06.2018.

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

Dated : 15th June, 2018

Rati

Copy to:

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

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Assistant Registrar,
ITAT, Chandigarh