

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" Bench, Mumbai**

**Before Shri R.C. Sharma, Accountant Member
and Shri Amarjit Singh, Judicial Member**

ITA No. 7533/Mum/2016
(Assessment Year: 2008-09)

M/s. Moving Systems India Pvt. Ltd. 105, Dr. B. Ambedkar Road Lalbaug, Mumbai 400013	Vs.	DCIT, Circle-7(2)(3) Mumbai
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PAN – AAACM7090H

Appellant

Respondent

Appellant by:	Shri Satish R. Mody
Respondent by:	Shri Suman Kumar

Date of Hearing:	05.07.2018
Date of Pronouncement:	24.07.2018

ORDER

Per R.C. Sharma, AM

This appeal has been filed by the assessee against the exparty order of the CIT(A)-13, Mumbai dated 19.09.2016 for A.Y. 2008-09 in the matter of order passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter “the Act”) r.w.s. 263 of the Act.

2. It was argued by the learned A.R. that there was a delay of 15 days in filing the appeal before the CIT(A) and this was due to the Diwali time during which the Accountant was on leave.

3. We have heard the rival contentions and found that the CIT(A) did not condone the delay in filing the appeal by observing that there was no sufficient reason. Before the CIT(A) the assessee has filed adjournment petition. The CIT(A) dismissed the same by observing that the Taxation Manager has left the organisation. Since there was no appearance on the date fixed for hearing as last opportunity, the CIT(A) dismissed the appeal by observing that the assessee has not shown sufficient reason for delay of

15 days.. The CIT(A) has not decided the issue on merits. As per the material placed on record we find that the appeal was fixed for hearing before the CIT(A) during the period of Diwali and since the Accountant was on leave he could not appear before the CIT(A). In the interest of substantial justice we restore the appeal back to the file of the CIT(A) for deciding it on merits. The assessee is directed to fully cooperate with the CIT(A) for disposing of the appeal. We direct the assessee to appear before the CIT(A) within a period of two months from the receipt of this order. Otherwise the CIT(A) is empowered to pass order as he think fit.

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 24th July, 2018.

Sd/-
(Amarjit Singh)
Judicial Member

Sd/-
(R.C. Sharma)
Accountant Member

Mumbai, Dated: 24th July, 2018

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -13, Mumbai*
4. *The Pr. CIT - 7, Mumbai*
5. *The DR, "B" Bench, ITAT, Mumbai*

By Order

//True Copy//

Assistant Registrar
ITAT, Mumbai Benches, Mumbai

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