

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, CHANDIGARH**

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

ITA No. 370/CHD/2018
Assessment Year : 2011-12

Sh. Raj Kumar Pal, Flat No.2040-D, Block No. 18, Sector 63, Chandigarh	Vs. The ITO, Ward 4(1), Chandigarh
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PAN No. AHJPP9124A

(Appellant)

(Respondent)

Appellant by	:	Sh. Parikshit Aggarwal, CA
Respondent by	:	Smt.Chanderkanta, Sr.DR

Date of Hearing	:	31.07.2018
Date of Pronouncement	:	04.09.2018

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 24.11.2016 of the Commissioner of Income Tax(A)-II, Gurgaon [hereinafter referred to as 'CIT(A)'].

2. The appeal is time barred by limitation period of 364 days. An application dated 13.6.2018 for condonation of delay has been filed which has been accompanied with affidavit of assessee, wherein, it has been deposed that the assessee had filed appeal against the order of the Assessing officer before the CIT(A)-II, Chandigarh which was later on transferred to CIT(A), Gurgaon. However, the said appeal was dismissed ex-parte as nobody appeared on behalf of the assessee despite service of notices. It has been further deposed

in the affidavit that the said notices were not served upon the assessee and, therefore, there was a reasonable cause for non-appearance before the CIT(A). It has been further deposed in the affidavit that after receipt of the copy of the order of the CIT(A) on 23.1.2017, he had handed over the documents to his counsel Shri Mukesh Goel, C.A. but the concerned C.A. did not file the appeal. The assessee came to know about the non-filing of the appeal only when he received show cause notice for imposition of penalty. It has, therefore, been stated that the assessee was prevented from reasonable cause for non-filing of the appeal in time.

3. The application of the assessee has further been supported with the affidavit of one Shri Mukesh Goyal S/o Sh. Ram Niwas Goyal, wherein, it has been stated that he is a practicing C.A. and member of the ICAI with membership No. 096887. That the assessee Shri Raj Kumar Pal has come to his office for filing of the appeal against the impugned order of the CIT(A), however, at that time his office was under renovation. That inadvertently the documents of the assessee were placed in some other file. That thereafter he (Shri Munish Goyal) and his subordinates forget about it and that is why the appeal of the assessee could not be filed. That when the assessee Shri Raj Kumar Paul had received penalty notice from Assessing officer then he enquired him about the fate of appeal and only at that time it was realized that the appeal had not been filed and that thereafter he traced the documents and handed over the same to the assessee. That subsequently the assessee engaged other counsel and filed the

present appeal. That the delay in in filing the appeal was not due to any lapse on the part of the assessee rather on the part of him i.e. the said C.A. which was not intentional.

4. We have considered the contents for application for condonation of delay and also of the affidavits and have heard the rival contentions. In our view, the reasons submitted by the assessee for non-filing of the appeal in time do not constitute sufficient reasons for condonation of delay. It seems to be an afterthought of the assessee. The facts on the file speaks that the assessee did not bother to attend the proceedings before the CIT(A) and after issuing several notices of date of hearing, the Ld. CIT(A) per force passed an ex-parte order. The assessee thereafter did not bother to file appeal before the Tribunal within the stipulated period of limitation. There is a delay of 364 days in filing the appeal. The plea that the assessee had handed over the documents to the counsel / C.A. who forget to file the appeal is a general plea which now-a-days has become a regular practice to take such plea. Even the concerned C.As blatantly and unabashedly will claim that the assessee had contacted them, however, they forgot to file the appeal of the assessee. In our view, such a plea taken, so generally, cannot be a ground for condonation of delay in each and every case. The facts on the file speak that the assessee from the very beginning has been reluctant to pursue the remedy of appeal either before the CIT(A) or before this Tribunal, hence, we do not find any reason to

condone the delay in this case. The appeal of the assessee is therefore, dismissed being barred by limitation period.

In the result, appeal, of the assessee is dismissed

Order pronounced in the Open Court on 04.09.2018

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

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Dated : 04.09 .2018

Rkk

Copy to:

- *The Appellant*
- *The Respondent*
- *The CIT*
- *The CIT(A)*
- *The DR*