

IN THE INCOME TAX APPELLATE TRIBUNAL  
BENGALURU BENCH 'A', BENGALURU

BEFORE SHRI. JASON P. BOAZ, ACCOUNTANT MEMBER

AND

SHRI. LALIET KUMAR, JUDICIAL MEMBER

I.T.A No.1038/Bang/2018  
(Assessment Year : 2014-15)

Hasham Investment and Trading Co.P. Ltd,  
(For the merged entity Napean Trading and  
Investment Co. P. Ltd) 134, Next Wipro Corporate Office,  
Doddakannelli, Sarjapur Road,  
Bengaluru 560 035 .. Appellant  
PAN : AAACN2710M

v.

Asst. Commissioner of Income-tax,  
Circle -5(1)(1), Bengaluru .. Respondent

Assessee by : Shri. B. K. Manjunath, CA  
Revenue by : Shri. Vikas K. Suryawamshi, Addl. CIT

Heard on : 12.12.2018  
Pronounced on : 21.12.2018

**ORDER**

**PER LALIET KUMAR, JUDICIAL MEMBER :**

The present appeal is filed against the ex-party order passed by the CIT (A), dt.19.02.2018, whereby the CIT (A) had applied the judgment of the Hon'ble Delhi High Court in the matter of CIT v. Multiplan [38 ITD 320], for dismissing the appeal of the assessee.

02. At the outset the Ld. AR had submitted that the matter is required to be remanded back with a direction to the CIT (A) to decide the matter on merits and had also submitted that as the assessment order was passed in the name of an entity which ceased to exist in view of the fact that the said entity M/s. Napean Trading and Investment Co. P. Ltd, had merged with the present assessee, namely, Hasham Investment and Trading Co.,

03. Per contra, the Ld. DR had submitted that the assessee has not participated in the proceedings and hence should not be given the benefit of its own wrong. Further the Ld. DR relied upon the judgment of the Hon'ble Delhi High Court and the Hon'ble Supreme Court in the matter of Skylight Hospitality LL.P v. ACIT [92 taxmann.com 93] and had submitted that the matter should not be sent back. If the bench sends it back then a direction be given to the CIT (A) to consider this decision in Skylight Hospitality LL.P (supra).

04. We have heard the rival contentions and perused the record. The assessee had explained before us the reason for non-appearance before the CIT (A) and we are convinced that there was valid and cogent reason which prevented the assessee from appearing before the lower authority. Considering the totality of the circumstances, we set aside the order passed by the CIT (A) and direct the CIT (A) to decide the appeal of the assessee on merit after condoning the delay in filing the appeal and also condoning the non-appearance at the hearing of appeal before him.

05. Simultaneously we direct the assessee to cooperate and participate on each and every date of hearing through its AR in the appellate proceedings.

06. We also direct the CIT (A) to consider the decisions submitted by the Ld. AR in support of the assessment order passed in the name of the erstwhile entity is unsustainable and for that purposes the CIT (A) may examine the applicability of the decision cited before us by the Ld. AR in the matter of Quantech Global Services Ltd v. ACIT [ITA No.1947/H/2011, dt.14.11.2017].

07. We may also like to point that the decision cited by the Ld. DR in the matter of Skylight Hospitality LL.P (supra) is also to be considered by the CIT (A) while deciding the issue of validity of the assessment proceedings done in the name of erstwhile entity.

08. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 21<sup>st</sup> day of December, 2018.

Sd/-

Sd/-

(JASON P. BOAZ)  
ACCOUNTANT MEMBER

(LALIET KUMAR)  
JUDICIAL MEMBER

Bengaluru

Dated : 21.12.2018

MCN\*

Copy to:

1. The assessee
2. The Assessing Officer
3. The Commissioner of Income-tax
4. Commissioner of Income-tax(A)
5. DR
6. GF, ITAT, Bangalore

By order

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Bangalore.