

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'D' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Vice-President (KZ)
and Shri A.T. Varkey, Judicial Member**

**I.T.A. No. 197/KOL/2018
Assessment Year: 2004-2005**

M/s. H.L. Mondal,.....Appellant
71, G.T. Road, Rishra, Hooghly,
West Bengal-712 248
[PAN: AADFH 2723 E]
-Vs.-

Income Tax Officer,.....Respondent
Ward-23(2), Hooghly,
Chinsurah, Hooghly-712 101

Appearances by:

Shri M.D. Shah, A.R, for the Appellant

Shri Sankar Halder, JCIT, Sr. D.R, for the Respondent

Date of concluding the hearing : January 10, 2019

Date of pronouncing the order : January 10, 2019

O R D E R

Per Shri P.M. Jagtap, Vice-President (KZ):-

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-6, Kolkata dated 10.11.2017, whereby he dismissed the appeal of the assessee as barred by limitation.

2. The assessee in the present case is a partnership firm. The return of income for the year under consideration was filed by it on 28.10.2004 declaring total income of Rs.25,056/-. In the assessment completed under section 143(3) vide an order dated 18.05.2007, additions, inter alia, of Rs.27,09,235/- were made by the Assessing Officer to the total income of the assessee on account of suppressed purchases amounting to Rs.19,30,412/- and inflated purchases amounting to Rs.7,78,823/-. On confirmation of the said additions by the Id. CIT(Appeals) as well as by

the Tribunal in the quantum proceedings, penalty proceedings under section 271(1)(c) were initiated by the Assessing Officer and since there was no explanation offered by the assessee in response to the show-cause notice issued during the course of the said proceedings, the Assessing Officer imposed a penalty of Rs.9,48,233/- under section 271(1)(c) of the Income Tax Act, 1961.

3. The penalty imposed by the Assessing Officer under section 271(1)(c) was challenged by the assessee in the appeal filed before the Id. CIT(Appeals). There was, however, a delay of 30 days on the part of the assessee in filing the said appeal and since there was no petition filed by the assessee seeking condonation of the said delay, the Id. CIT(Appeals) dismissed the appeal of the assessee by treating the same as barred by limitation. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. The Id. Counsel for the assessee has submitted that Shri Samiran Das, Accountant of the assessee-firm was on leave during the relevant period from 28th July, 2015 to 10th August, 2015 and since he was responsible for coordinating all taxation matters, there was a delay of about 20 days on the part of the assessee in filing the appeal before the Id. CIT(Appeals). Since this submission made by the Id. Counsel for the assessee is duly supported by an affidavit filed by the partner of the assessee-firm, we are satisfied that there was a sufficient cause for the delay on the part of the assessee in filing its appeal before the Id. CIT(Appeals). We, therefore, condone the said delay and remit the matter back to the Id. CIT(Appeals) for disposing of the appeal of the assessee on merit after giving proper and sufficient opportunity of being heard to the assessee.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open Court on January 10, 2019.

**Sd/-
(A.T. Varkey)
Judicial Member**

**Sd/-
(P.M. Jagtap)
Vice-President (KZ)**

Kolkata, the 10th day of January, 2019

- Copies to :*
- (1) ***M/s. H.L. Mondal,
71, G.T. Road, Rishra, Hooghly,
West Bengal-712 248***
 - (2) ***Income Tax Officer,
Ward-23(2), Hooghly, Chinsurah, Hooghly-712 101***
 - (3) ***Commissioner of Income Tax (Appeals)-6, Kolkata,***
 - (4) ***Commissioner of Income Tax- ,***
 - (5) ***The Departmental Representative***
 - (6) ***Guard File***

By order

***Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata***

Laha/Sr. P.S.