

IN THE INCOME TAX APPELLATE TRIBUNAL

(DELHI BENCH 'SMC' : NEW DELHI)

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

ITA No. 5036/Del/2018
Assessment Year: 2014-15

M/S PAP CHEM (INDIA) PVT. LTD.
311, 3RD FLOOR, RG MALL, SJ, LSC,
OPP. DHARAM KUNJ SOCIETY,
ROHINI, DELHI-85

(PAN: AABCP7859A)
(APPELLANT)

vs. INCOME TAX OFFICER,
WARD 19(3),
NEW DELHI

(RESPONDENT)

Assessee by : Sh. Anil Kumar Jain, CA
Revenue by : Sh. SL Anuragi, Sr. DR.

ORDER

The Assessee has filed this Appeal against the Order dated 01.6.2018 of the Ld. Commissioner of Income Tax (Appeals)-7, New Delhi on the following grounds:-

- 1. That on the facts and circumstances of the case and the provision of law, the Ld. CITA(A) has erred in not admitting the appeal and dismissing the same in limine.*
- 2. That on the facts and circumstances of the case and the provisions of the law, the initiation of penalty proceedings u/s. 271(1)(c) is illegal and bad in law and thus the penalty order passed by AO requires to be quashed.*
- 3. That on the facts and circumstances of the case and in the provisions of the law, the AO has erred in imposing penalty of Rs. 2,42,520/- u/s. 271(1)© of the Act.*

4. *That the appellant craves leave to reserve or itself the right to add, alter amend, vary, modify and / or withdraw and grounds of appeal at or before the time of hearing.*

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of brevity.

3. During the hearing, Ld. Counsel of the assessee has stated that Ld. CIT(A) has dismissed the appeal of the assessee on account of delay in filing the appeal without providing due, reasonable and adequate opportunity of hearing, in contravention of principles of natural justice and not decided the appeal on merit of the case, which is not sustainable in the eyes of law. He stated that delay in dispute was occurred due to plausible reasons in filing the e-appeal before the Ld. CIT(A) i.e. *“There has been a delay of 50 days in the filing of the appeal on account of failure to obtain advice of the CA. Now you are requested to please condone the delay in the interest of justice”*, which may kindly be condoned and the issues in dispute may be set aside to the file of the Ld. CIT(A) with the directions to pass a speaking order by deciding the merit of the case, after giving adequate opportunity of being heard to the assessee

4. On the contrary, Ld. DR strongly opposed the request of the Ld. Counsel of the assessee and relied upon the order of the Ld. CIT(A).

5. I have heard both the parties and perused the records. I have gone through the orders passed by the revenue authorities as well as the contention raised by the assessee in

the grounds of appeal. I find that Id. CIT(A) has dismissed the appeal on account of delay in filing the appeal and did not decide the appeal on merit of the case. I further find that there has been a delay of 50 days in the filing of the e-appeal on account of failure to obtain advice of the CA, which reason is quite plausible. Therefore, in my considered opinion and in the interest of justice, I condone the delay in dispute and set aside the issues in dispute to the file of the Ld. CIT(A) with the direction to decide the issues on merits, after giving adequate opportunity of being heard to the assessee and pass a speaking order.

6. In the result, Assessee's appeal is allowed for statistical purposes.

Order pronounced on 07-03-2019.

Sd/-

**(H.S. SIDHU)
JUDICIAL MEMBER**

Dated : 07-03-2019

SR BHATANGAR

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.