

**IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI**

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JM, &  
HON’BLE SHRI N. K. PRADHAN, AM**

आयकरअपीलसं./I.T.A. No. 2991 & 2992/Mum/2016  
(निर्धारणवर्ष / Assessment Year: 2007-08 & 2008-09)

Nandraj Developers Pvt. Ltd. 410, Morya Shalimar Park, Andheri Malad Link Road, Andheri (W) Mumbai-400 053.	<b>बनाम/ Vs.</b>	ITO, WD-8(2)(3) Aayakar Bhavan, M. K. Road, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No.		AAACN9915A
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	None
प्रत्यर्थीकीओरसे/Respondentby	:	Shri Rajeev Gubgotra, DR

सुनवाईकीतारीख/ Date of Hearing	:	09/04/2019
घोषणाकीतारीख/ Date of Pronouncement	:	09.04.2019

आदेश / ORDER

**Sandeep Gosain, Judicial Member:**

The present two Appeals have been filed by the assessee against the order of Commissioner of Income Tax (Appeals)- 17, Mumbai, dated 20.11.2015 for A.Y. 2007-08 & 2008-09 respectively.

2. Since the issues raised in these two appeals are identical, therefore, for the sake of convenience, these two appeals are clubbed, heard and disposed of by this consolidated order.

3. At the very outset, it is noticed that none has appeared on behalf of assessee in spite of calls and even no application for adjournment was moved. From the records, we noticed that on earlier occasion too i.e. on 23.01.18, none had appeared before the bench and consequently, the matter was heard ex-parte. Later on, the assessee moved an M.A. bearing no. 511 & 512/Mum/18 thereby requesting for recalling the order. Considering the request of the assessee, the order passed dated 23.01.18 was recalled and the assessee was again provided an opportunity to be heard on merits vide order dated 31.01.19. Thereafter on 01.04.19, the matter was adjourned to 08.04.19. On 08.04.19, at the request of assessee, the matter was adjourned to 09.04.19. However, today nobody appeared when the case was called and even no application for adjournment was moved. This conduct of the assessee shows that assessee is not interested in pursuing the appeals. On the other hand Ld. DR is present in the court and is ready with arguments. Therefore we have decided to proceed with the hearing of the case ex-parte with the assistance of the Ld. DR and the material placed on record.

4. The brief facts of the case are that both the above mentioned appeals pertain to upholding the order of levy of penalty by Ld. CIT(A). Ld. CIT(A) dismissed the appeals by not condoning the delay in filing the appeal i.e. for AY 2007-08 (there was delay of 364 days) and in appeal i.e. for AY 2008-09 (there was delay of 1010 days) respectively. Ld. CIT(A) after considering the submissions of both the parties, held that there was no material adduced by the assessee to successfully demonstrate that there was no negligent, inaction or want of due diligence involved in belatedly filing of both the appeals and even 'no sufficient cause' has been established by the assessee for the inordinate delay in filing the appeals.

5. We have heard Ld. DR and also perused the material placed on record as well as the orders passed by revenue authorities. Even before us, no new facts have been brought on record by the assessee in order to controvert or rebut the findings recorded by the Ld.CIT (A). Moreover, there are no reasons for us to deviate from the findings so recorded by the Ld. CIT (A). Therefore, we are of the considered view that the findings so recorded by the Ld. CIT (A) are judicious and are well reasoned. Accordingly, we uphold the same.

6. In the net result, both the appeals filed by the assessee stands **dismissed**.

*Order pronounced in the open court on 9<sup>th</sup> April 2019*

Sd/-  
(N. K. Pradhan)  
लेखासदस्य / Accountant Member  
मुंबई Mumbai; दिनांक Dated : 09.04.2019  
*Sr. PS. Dhananjay*

Sd/-  
(Sandeep Gosain)  
न्यायिकसदस्य / Judicial Member

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/BY ORDER,**

**उप/सहायकपंजीकार(Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai**