

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'B' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No. 2411/DEL/2016
[A.Y 2009-10]

Tangerine Digital Entertainment Pvt Ltd Vs.
1301-B-Naurang House, 21, K.G. Marg
Connaught Place, New Delhi

The Dy. C.I.T.
Circle 25(1)
New Delhi

PAN No: AACCT 4800 A

[Appellant]

[Respondent]

Date of Hearing : 04.06.2019
Date of Pronouncement : 20.06.2019

Assessee by : Shri Sanjay Sapra, CA

Revenue by : Ms. Ashima Neb, Sr DR

ORDER

PER SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER:-

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax [A] - 9, New Delhi dated 29.02.2016 pertaining to A.Y 2009-10.

2. The solitary grievance of the assessee is that the CIT(A) erred in law in rejecting the assessee's application for condonation of delay in filing the appeal before him and thereby dismissing the appeal.
3. The representatives of both the sides were heard at length.
4. At the very outset, we find that the assessee has filed an application dated 13.02.2018, which reads as under:

"It is submitted that the above mentioned appeal against order u/s 143(3) of I.T. Act was filed on 02/05/2016 and the same has been marked before B Bench of ITAT but is yet to be fixed for hearing.

From the CIT(A) order and the grounds of appeal as raised before the Hon'ble ITAT, it would be observed that the Ld. CIT(A) dismissed the appeal by simply rejecting the application as filed before him for condonation of delay of 5 months and 14 days in filing the appeal which was duly supported by necessary Affidavit. In other words, the appeal has not been decided on merits of the case.

It may also be relevant to point out here that though there is no demand raised in this matter on account of various disallowances of expenses as claimed due to substantial losses as available but penalty has been imposed u/s 271(1)(c) of I.T.

Act by the AO against which the appeal as filed before CIT(A) is pending disposal.

In view of the above, your honour is very kindly requested to issue directions for early future of hearing of the above quantum appeal as the same will humbly take a few minutes time for its disposal."

5. We have heard the rival submissions and have given thoughtful consideration to the orders of the authorities below as well as the application filed by the assessee. We find that the ld. CIT(A) has simply dismissed the appeal in spite of the fact that the assessee has filed necessary affidavit in support of his contentions and the appeal was not decided on merits of the case. Under the facts and circumstances of the case, we deem it fit to restore this appeal to the file of the ld. CIT(A) with a direction to consider the affidavit filed by the assessee and after condoning the delay, to dispose off the appeal on merits. Grounds raised by the assessee are allowed.

6. In the result, the appeal filed by the assessee in ITA No. 2411/DEL/2016 is allowed.

The order is pronounced in the open court on 20.06.2019.

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Sd/-

**[SUDHANSHU SRIVASTAVA,]
JUDICIAL MEMBER**

Dated: 20th June, 2019

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar

ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	