

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद /

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH 'C'**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI RIFAUR RAHMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No.3031/Ahd/2014

निर्धारण वर्ष/Asstt. Year: 2010-11

Multispan Instruments Co. 74, Adarsh Industrial Estate Chakudia Mahadev Road Rakhial Ahmedabad 380 023. PAN : AAEFM 7026 L	Vs.	JCIT, Range-12 Ahmedabad.
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	None
Revenue by :	Shri L.P. Jain, Sr.DR

सुनवाई की तारीख/Date of Hearing : 28/06/2019

घोषणा की तारीख/Date of Pronouncement: 15/07/2019

आदेश/ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER:

Assessee is in appeal before the Tribunal against order of the Id.CIT(A)-XX, Ahmedabad dated 2.9.2014 passed for the Asstt.Year 2010-11.

2. In response to the notice of hearing none has come present on behalf of the assessee. With the assistance of the Id.DR we have gone through the record and proceed to dispose of the appeal *ex parte* assessee-appellant.

3. It emerges out from the record that the assessee has filed its return of income on 27.9.2010 declaring total income at Rs.1,96,31,320/-. An assessment order was passed under section 143(3) on 28.2.2013 whereby total income of the assessee was determined at Rs.2,09,43,552/-. The addition of Rs.12,82,237/- has been made to the income of the assessee. Dissatisfied with the assessment order, assessee carried the matter in appeal before the Id.CIT(A). The appeal was filed on 17.4.2013. The Id.CIT(A) has observed that the appeal of the assessee was time barred by 3 days, and the assessee failed to file any application for condonation of delay. Hence, the Id.CIT(A) has dismissed the appeal of the assessee being time barred.

4. A perusal of the statement of facts filed before the Tribunal would indicate that defect in filing before the Id.CIT(A) was not communicated to the assessee. It was not brought to its notice that its appeal was time barred by 3 days and therefore it is required to file application for condonation of delay. To our mind Registry of the office of the Id.CIT(A) failed to follow the correct procedure. If there was any defect in the appeal, it should have been brought to the notice of the assessee, more so, when delay is very nominal i.e. just three days; appeal should not have been dismissed on that count. Therefore, we set aside the order of the CIT(A) and restore this issue to his file. It will be appreciated that the Id.CIT(A) will follow the correct procedure by pointing out to the assessee about the defects in its appeal. Even otherwise, we give opportunity to the assessee to file application for condonation of delay before the Id.CIT(A) within one month after receipt of this order and on such application the Id.CIT(A) shall decide the issue

for condonation of delay, and thereafter, if convinced, then decide the appeal on merit.

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

Order pronounced in the Court on 15th July, 2019.

Sd/-
(RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER