

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री एस. जयरामन, लेखा सदस्य के समक्ष

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.1794, 1795, 1796 & 1797/Chny/2019
निर्धारण वर्ष /Assessment Years: 2009-10, 2010-11, 2011-12 & 2012-13

M/s. Regaliaa Realty Ltd.,
No.10, Tarapore Avenue,
Harington Road, Chetpet,
Chennai – 600 031.

Vs. The Dy. Commissioner of
Income Tax,
Corporate Circle-5(1),
Chennai.

[PAN: AACCS 9745B]
(अपीलार्थी/ Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	None
प्रत्यर्थी की ओर से /Respondent by	:	Mr. ARV Sreenivasan, JCIT
सुनवाई की तारीख/Date of Hearing	:	27.08.2019
घोषणा की तारीख /Date of Pronouncement	:	27.08.2019

आदेश / ORDER

PER BENCH:

These four appeals filed by the assessee against the common Order of the Commissioner of Income Tax (Appeals)-3, Chennai, in ITA Nos.69, 70 & 71/2014-15 & 134/15-16/CIT(A)-3, dated 28.02.2017 for the Assessment Years 2011-12, 2010-11, 2009-10 & 2012-13 respectively.

2. None represented on behalf of the assessee and Mr. ARV Sreenivasan, JCIT, represented on behalf of the Revenue.

3. The appeals are delayed by 770 days. The assessee has filed petition for condonation of delay. It is the submission that the assessee-company had closed down its operations and all employees had left the job on account of financial crisis. Further the Director's spouse had also expired and he was in a distressed state of mind. It was a submission that was also the reason why no one had appeared on behalf of the assessee before the Id. CIT(A).

4. We have considered the rival submissions and the affidavit filed by the Director.

5. The assessee has sought an adjournment. As it is noticed that appeal relates an exparte decision by the Id. CIT(A), the adjournments sought by the assessee is rejected. Shri A.Kurian Joseph, Advocate was requested to assist the Court. The Id. counsel submitted that an affidavit for condonation of delay having been filed and the reasons as mentioned in the affidavit having not been found or proved to be false, the same is liable to be accepted and the delay condoned in respect of the filing of the appeal. It was his further submission that the exparte decision by the Id. CIT(A) by

applying Multiplan India (P.)Ltd. was unsustainable in so far as in the case of Multiplan India (P.)Ltd, it was appeal of the Revenue, which was dismissed, as the Revenue was unable to serve notice on the assessee in their appeal. It was a submission that the issues in the appeal was liable to be restored to the file of Id. CIT(A) for adjudication of the issues on merits.

6. In reply, the Ld.DR vehemently supported the order of the AO and the Ld.CIT(A).

7. We have considered the rival submissions.

8. Considering the fact that the affidavit filed by the Director of the assessee-company explaining the reasons for the delay having not been found to be false, the delay in filing of the appeal before the Tribunal is condoned and the appeals disposed off on merits. It is noticed that the Id. CIT(A) has applied the decision of the Hon'ble Delhi Tribunal in the case of Multiplan India (P.) Ltd. for the purpose of the exparte dismissal of the assessee's appeal before him. It is admittedly noticed that the decision in the case of Multiplan India (P.) Ltd. was a decision against the Revenue on account of non serving of the notice on the assessee in Revenue's appeal. This principle admittedly cannot be applied in the case of an appeal filed by an assessee. This being so, considering the fact that the Id.

CIT(A) had granted the assessee substantial opportunities as has been brought out in Page 1 at Para 2 of his order and considering the fact that there has been non-representation on the part of the assessee, in the interest of natural justice, the issues of these appeals restored to the file of Id. CIT(A) for re-adjudication on merits subject to the assessee paying cost of Rs. 10,000/- per appeal to the Prime Minister's Disaster Relief Fund and production of the copy of the said receipt before Id. CIT(A) on the date of the hearing, to be intimated by the Id. CIT(A).

9. In the result, all the appeals filed by the assessee are partly allowed for statistical purpose.

Order pronounced in the Open Court on the 27th day of August, 2019, in Chennai.

Sd/-

(एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 27th August, 2019.

EDN, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant | 4. आयकर आयुक्त/CIT |
| 2. प्रत्यर्थी/Respondent | 5. विभागीय प्रतिनिधि/DR |
| 3. आयकर आयुक्त (अपील)/CIT(A) | 6. गार्ड फाईल/GF |