

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE
BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA No.913/Ind/2019
Assessment Year: 2012-13

| | | |
|--|-----|----------------------|
| M/s. DCPL International, 404, City Center, 570 M.G. Road, Indore | Vs. | ACIT 1(1), Indore |
| (Appellant) | | (Revenue) |
| PAN No.AAEFD1908N | | |

| | |
|-----------------------|--------------------------|
| Appellant by | None |
| Revenue by | Shri R.P. Mourya, Sr. DR |
| Date of Hearing | 10.06.2020 |
| Date of Pronouncement | 11.06.2020 |

O R D E R

PER MANISH BORAD, AM.

This appeal is filed by the assessee against the order of Id. CIT(A)-III, Indore dated 13.06.2019 pertaining to Assessment year 2012-13. The assessee has raised following grounds of appeal:

- 1. "On the facts and in the circumstances of the case and in law, the learned assessing officer erred in disallowing Rs.11,56,500/- being business promotion and the reasons assigned by him for doing so are wrong and contrary to the facts and circumstances of the case, provisions of Income Tax Act, 1961 and rules made there under.*
- 2. On the facts and in the circumstances of the case and in law, the learned assessing officer erred in holding that the assessee firm had failed to distribute the gold coin purchased and distributed to foreign country for any business expediency and the reasons assigned by him for doing so are wrong and contrary to*

the facts and circumstances of the case, provisions of Income Tax Act, 1961 and rules made there under.

3. On the facts and in the circumstances of the case and in law, the learned assessing officer erred in disallowing Rs.1,42,774/- out of travelling expenses and the reasons assigned by him for doing so are wrong and contrary to the facts and circumstances of the case, provisions of Income Tax Act, 1961 and rules made there under.

4. The Ld. Commissioner of Income Tax (Appeals) has erred in law and in facts ought to have admitting the appeal and deciding the appeal on merits.

5. The appellant craves leave to add, amend, alter, modify and/or delete any of the above grounds of appeal on or before the date of hearing.

2. None appeared on behalf of the assessee. Registry informed that the appeal is time bared by 64 days. The appeal was taken up with the assistance of Ld. Departmental Representative.

3. An application has been filed seeking condonation of delay for the present appeal. It is stated that reason for delay in filing the appeal that initial CIT order were sent on mail and the assessee is not a frequent user of mail and conversant with the features of the same. It was come to the notice of assessee about the CIT order at the time of filing of ITR on E-portal. The physical copy of CIT order was not found with the assessee and there was an inadvertent delay of 64 days for filing appeal before the

Tribunal. Through this application assessee prayed that delay of 64 days occurred may be condoned and the appeal may be admitted for adjudication.

4. On the other hand Ld. Departmental Representative opposed the submissions for condonation of delay and supported the orders of Ld. CIT(A).

5. We have heard the submission of Ld. Departmental Representative and perused the records placed before us. We find that the instant appeal is delayed by 64 days. However looking to the reasons mentioned in the application for seeking condonation of delay, we are satisfied that the assessee had a reasonable cause for this delay of 64 days. We therefore in the interest of justice and the reasonable cause mentioned before us, condone the delay of 64 days in filing the appeal before the Tribunal and admit it for adjudication.

6. We further find that the impugned order is *ex-parte*. Ld. CIT(A) dismissed the assessee's appeal in *limine* for non appearance. Ld. CIT(A) has not dealt with the merits of the case. In these given facts and circumstances of the case the assessee deserves one more opportunity. We therefore in the interest of justice and being fair to both the parties, set aside all the issues raised on merits in the instant appeal to the file of Ld. CIT(A) for afresh adjudication and to pass a speaking order after providing reasonable opportunity of being heard to the assessee. We also

direct the assessee to cooperate/appear before Ld. CIT(A) on the date of hearing and should refrain from taking unnecessary adjournment unless otherwise required for reasonable cause.

7. In the result, appeal filed by the assessee is allowed for statistical purposes only.

Order was pronounced in the open court on 11.06.2020.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Sd/-

**(MANISH BORAD)
ACCOUNTANT MEMBER**

नांक /Dated : 11 June, 2020

/Dev

Copy to: The Appellant/Respondent/CIT concerned/CIT(A)
concerned/ DR, ITAT, Indore/Guard file.

By Order,
Asstt.Registrar, I.T.A.T., Indore