

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A" JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 78 &79 /JP/2019
निर्धारण वर्ष/Assessment Year: 2013-14 (F.Y.2012-13Q. 4th)
2014-15 (13-14 Q. 4th)

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| Shri Dhalu Mal Dhaman Das 19, Kem Building, Parao, Ajmer-30500. | बनाम Vs. | The ACIT, CPC (TDS), Gaziabad. |
| स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAJFD 1176 H | | |
| अपीलार्थी / Appellant | | प्रत्यर्थी / Respondent |

निर्धारिती की ओर से / Assessee by : None
राजस्व की ओर से / Revenue by : Shri K.C. Gupta (JCIT)

सुनवाई की तारीख / Date of Hearing : 29/06/2020
उदघोषणा की तारीख / Date of Pronouncement: 30/06/2020

आदेश / ORDER

PER BENCH:

These two appeals by the assessee are directed against two separate orders of Id. CIT(A), Ajmer both dated 11.05.2017 for the financial years 2012-13 Q. 4th and 2013-14 Q. 4th arising from intimation by the AO on 23.12.2013 and 19.09.2014 respectively U/s 200A of the Act whereby the AO made adjustment on account of late filing fees U/s 234E of the Act.

2. The hearing of these appeals was concluded through video conference in view of the prevailing situation of COVID-19 pandemic. Non has appeared on behalf of the assessee however, the assessee has filed letter dated 08.05.2019 which is on record whereby the assessee requested to dispose off these appeals on the basis of written submissions. There is about 18 months delay in filing of these two appeals by the assessee. The assessee has filed an application for condonation of delay which reads as under:-

"We are hereby submitting form 36 in duplicate along with other documents for assessment year 2014-15 towards appeal in ITAT, Jaipur Bench, Jaipur but due to medical problems due to which the appeal could not be filed in time and it is thus requested to kindly condone the delay in filing the above appeal and oblige."

Apart from this application for condonation of delay neither any supporting affidavit nor any documentary evidence has been filed by the assessee. The DR has vehemently opposed to the condonation of delay in filing these appeals and submitted that the assessee is a habitual defaults in submitting TDS statement as well as filing the appeal before the Id. CIT(A). He has further pointed out that even the appeals before the Id. CIT(A) were dismissed due to abnormal delay. The Id. CIT(A) has clearly pointed out that there is an ordinate delay in

filing these appeals for which the assessee has not given reasonable cause or explanation. Thus, the conduct of the assessee do not deserves any lenient view.

3. We have considered the explanation of the assessee in the application for condonation of delay wherein the assessee has made a vague statement that due to medical problems the appeal could not be filed in time. However, the assessee has neither explained what medical problems be suffered from nor any supporting document is filed. Even the application for condonation of delay is not supported by an affidavit. Further, it is manifest from the record that there is inordinate delay even in filing the appeal before the Id. CIT(A). The intimation has issued on 23.12.2013 which was challenged by the assessee by filing the appeal on 29.02.2016 which shows that there is more than two years delay. Even before the Id. CIT(A) the assessee has not explained any cause of delay in filing the appeal. The Id. CIT(A) has dismissed the appeal of the assessee as not maintain such being barred by limitation. These facts clearly show that the assessee is not taking tax matter seriously. Further, there is inordinate delay in filing the appeals before this Tribunal which has not been explained by the assessee and the only one line vague reasons are given "due to medical

problem the appeal could not be filed in time.” Therefore, the explanation of the assessee is lacking the bonafide reason or cause. The assessee is merely giving an excuse without any supporting facts or documentary evidence. The assessee is a partnership firm and therefore, the vague explanation of the assessee cannot be considered as a reasonable and bonafide cause for inordinate delay in filing the appeal. Though it is settled proposition of law whenever substantial justice and technical considerations are opposed to each other cause of substantial justice has to be preferred however, it does not mean that litigant gets free licence to approach the court at its will. In the case in hand despite the fact that the appeals of the assessee were dismissed by the Id. CIT(A) due to inordinate delay the assessee has again approach this Tribunal after about 20 months from the impugned order of the Id. CIT(A) and hence, there is a delay of 18 months. In the facts and circumstances of the case an inordinate delay in filing the appeal is required to be explained with reasonable cause to the satisfaction of the Tribunal. The conduct of the assessee does not inspire the confidence and hence, we are of the considered opinion that the assessee has grossly failed to explain the reasonable cause in filing the appeal belatedly. Accordingly, we decline to condone the delay of about 18

months in filing the present appeals. Accordingly, the appeals of the assessee are dismissed being barred by limitation.

In the result, the appeals of the assessee are dismissed.

Order pronounced in the open court on 30/06/2020.

Sd/-

(विक्रम सिंह यादव)
(Vikram Singh Yadav)

लेखा सदस्य / Accountant Member

Sd/-

(विजय पाल राव)
(Vijay Pal Rao)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 30/06/2020.

*Santosh.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Dhalu Mal Dhaman Das, Ajmer.
2. प्रत्यर्थी / The Respondent- ACIT, CPC (TDS), Ghaziabad (U.P.).
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 78 & 79/JP/2019}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar