

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI A.K GARODIA, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

IT(TP)A No.180/Bang/2020
Assessment Year : 2008-09

M/s Obulapuram Mining Co. Pvt. Ltd., No.123, Veerana Gowda Colony, Ganesh Nagar, Bellary-583 103.	Vs.	The Asst. Commissioner of Income-tax, Central Circle-1(3), Bengaluru.
PAN – AAACO 5753 D		
APPELLANT		RESPONDENT

Appellant by	:	Shri Mayank Jain, Advocate
Respondent by	:	Shri Muzaffar Hussain, JCIT (DR)

Date of Hearing	:	08-09-2020
Date of Pronouncement	:	21-09-2020

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal has been filed by assessee against order dated 13/12/2019 passed by Ld. CIT (A)-11, Bangalore for assessment year 2008-09.

2. At the outset, Ld.AR submitted that, Ld.CIT(A) dismissed the appeal without deciding issues on merits. He submitted that, assessee filed appeal before Ld.CIT(A) with delay of 57 days. He submitted that, Ld.CIT(A) did not condone the delay and rejected the appeal.

3. Before us, Ld.AR submitted that, reason attributed for delay was found to be vague by Ld.CIT(A). The Ld.AR submitted that the impugned order is unreasoned, as nothing is specified as to why explanation furnished by assessee is not acceptable.

4. Before us, Ld.AR submitted that, delay occasioned to file appeal before Ld.CIT(A) was not intentional and deliberate, and that, assessee was precluded from travelling to Bellary, due to condition imposed by *Hon'ble Supreme Court*, while granting bail. He submitted that, both Directors of assessee were precluded by *Hon'ble Supreme Court* to travel to Bellary, and therefore appeal could not be filed in time.

5. On the contrary, Ld.CIT.DR submitted that, delay has not been condoned by Ld.CIT(A), as no evidence were filed by assessee in support of its contention.

6. We have perused submissions advanced by both sides, in light of records placed before us.

Hon'ble Supreme Court in [Collector, Land Acquisition vs. Mst. Katji & Ors](#) reported in (1987) 167 ITR 471 held that, when substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to be preferred, the other side cannot claim to have vested right in injustice being done because non-deliberate delay. *Hon'ble Court* has held that, there is no presumption that delay is occasioned deliberately or on account of culpable negligence or on a malafide, and that litigation does not

stand to benefit by resorting to delay, in fact he is on serious risk.

7. In various cases *Hon'ble Supreme Court* and *Hon'ble High Court's* time and again laid down principles that, there should be a liberal, pragmatic, justice oriented and non-pedantic approach while considering the application of condonation of delay. The term "sufficient cause" should be construed liberally and that substantial Justice being paramount and pivotal, technical consideration should not be given undue emphasis.

8. Respectfully following above principles, we condone the delay caused by assessee in filing appeal before Ld.CIT(A). We remand the case back to Ld.CIT(A) to decide the issues alleged by assessee on merits. Ld.CIT(A) is directed to pass a reasoned order after considering the submissions and evidences filed by assessee in respect of its claim. Needless to say that proper opportunity of being heard shall be granted to assessee in accordance with law.

Accordingly grounds raised by assessee stands allowed for statistical purposes.

In the result appeal filed by assessee stands allowed for statistical purposes.

Order pronounced in the open court on 21st Sept, 2020.

Sd/-
(A.K GARODIA)
Accountant Member
Bangalore,
Dated, the 21st Sept., 2020.
/Vms/

Sd/-
(BEENA PILLAI)
Judicial Member

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore
6. Guard file

By order

Assistant Registrar,
Income-Tax Appellate Tribunal.
Bangalore.

		Date	Initial	
1.	Draft dictated on	On Dragon		Sr.PS
2.	Draft placed before author	-09-2020		Sr.PS
3.	Draft proposed & placed before the second member	-09-2020		JM/AM
4.	Draft discussed/approved by Second Member.	-09-2020		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	-09-2020		Sr.PS/PS
6.	Kept for pronouncement on	-09-2020		Sr.PS
7.	Date of uploading the order on Website	-09-2020		Sr.PS
8.	If not uploaded, furnish the reason	--		Sr.PS
9.	File sent to the Bench Clerk	-09-2020		Sr.PS
10.	Date on which file goes to the AR			
11.	Date on which file goes to the Head Clerk.			
12.	Date of dispatch of Order.			
13.	Draft dictation sheets are attached	No		Sr.PS