

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI  
श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष  
**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.3340/CHNY/2019  
(निर्धारण वर्ष / Assessment Year: 2009-10)

**Smt. Neena Umed Mehta,**  
No.31, Kent Apartments,  
36, Ritherdon Road,  
Vepey, Chennai – 600 007.

Vs **The ACIT,**  
Company Circle – II(4),  
Chennai – 34.

**PAN: AADPM2148L**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri V.S. Jayakumar, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Ms. R. Anitha, JCIT  
सुनवाई की तारीख/Date of hearing : 15.10.2020  
घोषणा की तारीख /Date of Pronouncement : 19.10.2020

**आदेश / ORDER**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-9, Chennai in ITA No.45/CIT(A)-9/11-12/AY 2009-10 dated 20.09.2019 for the assessment year 2009-10.

2. Smt. Neena Umed Mehta, the assessee, is Director of M/s. Kesaria Marketing Pvt. Ltd. There was a survey in M/s. Kesaria Marketing Pvt. Ltd., & group companies floated by Shri Umed Mehta, wherein Shri Umed Medhta admitted that he did not indulge in mining activities as claimed in the books of account and was getting some income receipts from M/s. Kawarlal & Co. In order to accommodate such receipts, bogus credits were introduced in the assessee's books of account to claim the expenses towards non-existing mining operations with group companies. Therefore, during the assessment proceedings for the AY 2009-10 in the assessee's case, the AO made disallowance of bogus sundry creditors, added the cash credits in the bank accounts, disallowed interest on the borrowed capital and completed the assessment. Aggrieved, the assessee filed an appeal before the CIT(A) with a delay of 24 days. She pleaded that Shri Umed Mehta was sick, out of station for treatment and hence the delay of filing the appeal of 24 days is not with a willful intent and that since substantial issues of law and facts are involved, the Ld.CIT(A) be pleased to condone the delay in filing the appeal and adjudicate the appeal on merit. The Ld.CIT(A) held that the assessee failed to explain that the delay in filing the appeal was due to sufficient cause

and hence dismissed the appeal as not-maintainable. Aggrieved, the assessee filed this appeal.

3. The case was heard through video conferencing. The Ld.AR submitted that Shri Umed Mehta, the assessee's father appeared on behalf of the assessee before the Ld.CIT(A). He is not a professional and does not know the technicalities of representation before the authorities. However, he tried his best to bring all the facts on record. Merely because his answer was not cogent, the Ld.CIT(A) dismissed the case on technicalities, without adjudicating the case on merit and therefore, the Ld.AR pleaded to condone the delay and decide the issues on merit. Per contra, the Ld.DR supported the order of the Ld.CIT(A).

4. We heard the rival submissions and gone through the relevant material. The fact remains that the assessee's father only admitted certain facts at the time of survey, based on which the impugned assessment proceedings are proceeded with. It is clear from the assessment and appeal orders that Shri Umed Mehta only appeared on behalf of the assessee before those authorities. Therefore, when the assessee pleads that her father was sick and he was out of

station for treatment, therefore she could not file the impugned appeal in time appears to be a sufficient cause for the reason that without his advice, it could not have been possible for the assessee to proceed with the appeal. Therefore, we set aside the order of the Ld.CIT(A), condone the delay in filing the impugned appeal and direct the CIT(A) to decide the issues on merit after affording due opportunity to the assessee.

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

Order pronounced on 19<sup>th</sup> October, 2020 at Chennai.

Sd/-

(वी दुर्गा राव)

(V. Durga Rao)

न्यायिक सदस्य/Judicial Member  
चेन्नई/Chennai,

दिनांक/Dated 19<sup>th</sup> October, 2020

**RSR**

Sd/-

( एस जयरामन )

(S. Jayaraman)

लेखा सदस्य /Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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