

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "D" BENCH, MUMBAI**

**[Coram: Justice P. P. Bhatt (President)
And Pramod Kumar (Vice President)]**

ITA No. 7095/Mum/2017
Assessment Year: 2009-10

Manisha EnterprisesAppellant
*19-M.K. Bros. Industrial Estate,
A.K Road, Jarimari,
Mumbai 400022
[PAN:AAIFM2433K]*

Vs

Income Tax Officer 26(2)(2)
MumbaiRespondent

Appearances:

None for the appellant

Bharat Andhale *for the respondent*

Date of concluding the hearing: : December 22nd, 2020

Date of pronouncement : December 22nd, 2020

O R D E R

Per Bench :

1. By way of this appeal, the assessee appellant has called into question correctness of the order dated 29.09.2017 passed by the learned CIT(A)-38, Mumbai in the matter of assessment u/s.271(1)(c) of the Income Tax Act, 1961, for the assessment year 2009-10.

2. When this appeal was taking up for hearing today it was noticed that the appeal is time barred by 3 days. In support of the petition seeking condonation of delay the assessee appellant has filed an affidavit contention set out below:

I, Mrs. Manisha Vishnudas Kamat Partner, having her office at Manisha Enterprises, 19, M.K.Brothers Industrial Estate, A. K.Road, Jarimari, Mumbai-400 072 have to state as under ;

- 1. I say that the firm is assessed to tax regularly under P.A. No. AAIFM2433K.**
- 2. I say, that the appellate order passed by the C.I.T(A) was received by the assessee on 12/10/2017.**
- 3. I say that I was not in Mumbai till the 13th December, 2017.**
- 4. I say that the Appeal was filed on 14-12-2017.**

Whatever stated above and in the Application is true to the best of my Knowledge and belief.

3. The assessee wishes to opt for Vivad Se Vishwas scheme and he can do so only upon the delay being condoned and the appeal being adjudicated on merits. In any case, having perused the petition, we are satisfied about bonafides of delay.

4. Shri Bharat Andhale, Departmental Representatives submits that he has no objection to the delay being condoned only for the reason that the assessee is opting for settlement of pending dispute under Vivad Se Vishwas scheme. It is for this short reason that he is not opposing the condonation petition.

5. In view of the discussions and bearing in mind the entirety of the matter, we deem it fit and proper to condone the delay and admit the appeal for hearing on merits. In the meantime, as is the assessee has given an assurance to us-which is taken on record, the assessee may opt for settlement of dispute under Vivad Se Vishwas scheme. Order accordingly.

Pronounced in the open court today on the 22nd December, 2020

Sd/-
Justice P. P. Bhatt
(President)

Sd/-
Pramod Kumar
(Vice President)

Mumbai, dated the 22nd day of December, 2020
N.V, Sr.PS

Copies to:

<i>(1)</i>	<i>The Applicant</i>	<i>(2)</i>	<i>The respondent</i>
<i>(3)</i>	<i>CIT</i>	<i>(4)</i>	<i>CIT(A)</i>
<i>(5)</i>	<i>DR</i>	<i>(6)</i>	<i>Guard File</i>

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Mumbai benches, Mumbai*