

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

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

ITA No. 1109/Mum/2019  
Assessment Year: 2007-08

**Mahindra Water Utilities Limited** .....Appellant  
*Mahindra Towers, 5<sup>th</sup> Floor,  
P.K Kurne Chowk, Worli,  
Mumbai 400018  
[PAN:AACCM4771A]*

*Vs*

**Assistant Commissioner of Income Tax- 6(3)  
Mumbai** .....Respondent

**Appearances:**

*None for the appellant*

*Bharat Andhale for the respondent*

Date of concluding the hearing: : December 22<sup>nd</sup>, 2020

Date of pronouncement : December 22<sup>nd</sup>, 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 03.03.2015 passed by the learned CIT(A)-13, Mumbai in the matter of assessment u/s.271(1)(c) of the Income Tax Act, 1961, for the assessment year 2007-08.

2. When this appeal was taking up for hearing today it was noticed that the appeal is time barred by 1385 days. In support of the petition seeking condonation of delay the assessee appellant has filed an affidavit contention set out below:

**I, Prasad Bapat, aged of 45 years, being the employee working with B K Khare & Co, Chartered Accountants ("the Firm") having its registered office at 706-708, Sharda Chambers, New Marine Lines, Mumbai 400 020, do solemnly affirm as under:**

**1. The Firm was appointed as authorised representative of Mahindra Water Utilities Limited ("the company" or "the Appellant") in respect of the appellate proceedings before the Commissioner of Income-tax (Appeals) - 13, Mumbai ("the CIT(A)") for AY 2007-08.**

**2. The aforesaid appeal was filed on April 27, 2012 against penalty order dated March 30, 2012 passed under section 271(1)(c) of the Income-tax Act, 1961 ("IT. Act") by the Assistant Commissioner of Income-tax 6(3) (the Current Assessing Officer, Assistant Commissioner of Income-tax 7(2)(1), Mumbai) ("the Ld. AO"). The CIT(A) vide the appellate order dated March 3, 2015 has confirmed the levy of penalty under section 271(1)(c) of the I.T. Act.**

**3. The company wishes to prefer an appeal before the Income-tax Appellate Tribunal ("the ITAT") against the above penalty order. Accordingly, on a perusal of records, I observed that the acknowledged copy of the appeal documents filed before the CIT(A) have inadvertently been misplaced.**

**4. I have been following up for copies of the appeal filing documents with the office of the CIT(A) since November 2018. Initially, I was following up with the CIT(A) office but since no positive response was received, I requested the company to file written request. Accordingly, the Company has filed letter on January 11, 2019 with the office of CIT(A) requesting for copy of form 35, grounds of appeal and statement of facts. Pursuant to this, the company also filed a request letter with the Ld. AO on January 24, 2019 for obtaining the above documents.**

**5. Since the company has not received the acknowledged copy of the CiT(A) appeal filing documents from the Ld. AO or the CIT(A), the company has submitted the copies of form 35, grounds of appeal and statement of facts duly signed by the Director of the company.**

**6. Further, I hereby confirm that the aforesaid appeal documents have been filed with the CIT(A).**

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 22<sup>nd</sup> December, 2020

**Justice P. P. Bhatt**  
(President)

**Pramod Kumar**  
(Vice President)

**Mumbai, dated the 22<sup>nd</sup> day of December, 2020**  
N.V, Sr.PS

*Copies to:*

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

*By order*

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