

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "A", HYDERABAD  
(Through Virtual Hearing)

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

ITA No.1526/Hyd/2017	
Assessment Year:2005-06	
R. Venkat Reddy, Prop. M/s. Sairam Graphics, Hyderabad. PAN: AGSOR 4474 P (Appellant)	Vs.  (Respondent)
Assessee by:	B. Satyanarayana Murthy
Revenue by:	Shri Sunil Kumar Pandey, DR
Date of hearing:	06/01/2021
Date of pronouncement:	08/01/2021

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT (A)-1, Guntur in appeal No. 973/CIT(A)-1/GNT/2010-11, dated 11-05-2017 passed U/s. 143(3) r.w.s 153C and U/s. 250(6) of the Act for the A.Y.: 2005-06.

2. At the outset, it is observed from the record that there is a delay of 31 days in filing the appeal before the Tribunal. In this regard, the assessee's Counsel had submitted an affidavit seeking condonation of delay wherein the reasons for not filing the appeal within the prescribed

time limit was explained. For reference, the relevant portion from the affidavit is extracted herein below:-

*“I am the partner for M/s. Venugopal & Chenoy and I am conversant the facts of the case relating to ITA No. 1526/H/17 appeal filed by Sri R. Venkat Reddy for the Assessment Year 2005-06 before the Income Tax Appellate Tribunal. The order of the Commissioner of Income Tax, Appeals-1 Guntur disposed off the appeal of Sri R. Venkat Reddy for the A.Y. 2005-06 through order 11/5/2017. This order is received by the appellant on 1/6/2017 in our appeals Register. The date of receipt is correctly mentioned as 1/6/2017 but the due date is mentioned by the concerned clerk as 29/08/2017. Normally, the due date is written in the Register as the date which is 2-3 days in advance with reference to the correct due date. As order received on 1/6/2017 the due date is 31<sup>st</sup>. The correct date is taken as 31/8/2017 and the appeal was filed on that date. However, the correct due date is 31/7/2017 not 31/8/2017 that there is a delay of 31 days in filing the appeal. The delay of 31 days on account of commission in our office by the concerned clerk.”*

3. On perusal of the affidavit filed by the assessee's Counsel explaining the reasons for delay in filing the appeal before the Tribunal, We are of the view that the delay was caused due to the mistake of the clerk at assessee's Counsel's office and the same is not attributable to the assessee. Therefore, in the interest of justice, We hereby condone the delay of 31days in the filing the appeal before the Tribunal and proceed to hear the appeal on merits.

4. At the outset, Ld.AR submitted before us that the assessee desires to withdraw his appeal as the assessee has opted to avail 'Vivad Se Viswas' scheme. He further submitted that the assessee had filed Form No.1 & 2 and is awaiting to receive Form-3 from the Revenue. It was therefore pleaded, that the appeal of the assessee may be allowed to be withdrawn.

5. The Ld. DR conceded to the request of the Ld.AR.

6. Having heard both the parties through video conference, We are inclined to allow the appeal of the assessee to be withdrawn yielding to the prayer of the Ld. AR as the assessee has preferred to avail the Vivad-se-Vishwas Scheme by filing Form No.1 & 2. The Ld. DR has also conceded to the request of the Ld. AR. Accordingly, We hereby dismiss the appeal of the assessee as withdrawn. However, we also make it clear that, if the assessee's case is not accepted in the Vivad-Se-Viswas scheme by the Revenue for whatsoever may be the reason, then the assessee shall be at liberty to file a Miscellaneous Petition before the Tribunal within the time limit prescribed under the Act to reinstate the appeal. It is ordered accordingly.

Pronounced in the open Court on 08<sup>th</sup> January, 2021.

Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 08<sup>th</sup> January, 2021.

OKK

Copy to:-

1.	R. Venkat Reddy C/o. Venugopal & Chenoy, Chartered Accountants, 4-1-889/16/2, Tilak Road, Hyderabad – 500 001.
2.	The Dy. Commissioner of Income Tax, Central Circle-7, Hyderabad.
3.	The CIT (A)-1, Guntur.
4.	The Principal Commissioner of Income Tax (Central), Hyderabad.
5.	The Departmental Representative, ITAT, Hyderabad.
6.	Guard File