

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'D' : NEW DELHI)**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCE)

**ITA No.3548/Del./2017
(ASSESSMENT YEAR : 2012-13)**

M/s. Jay Gee Overseas P. Ltd., vs. DCIT, Circle 13 (2),
129, AD Block, Pitampura, New Delhi.
Delhi – 110 088.

**(PAN : AABCJ1624R)
(APPELLANT)**

(RESPONDENT)

ASSESSEE BY : None
REVENUE BY : Shri Shailesh Kumar, CIT DR

**Date of Hearing : 18.01.2021
Date of Order : 29.01.2021**

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Appellant, M/s. Jay Gee Overseas P. Ltd, (hereinafter referred to as 'the assessee') by filing the present appeal sought to set aside the impugned order dated 28.04.2017 passed by the Commissioner of Income-tax (Appeals)-5, Delhi qua the assessment year 2012-13 on the grounds that :-

- “1. That the order passed by the CIT (A) is bad in law and against the principle of natural justice.**
- 2. That on the facts and in the circumstances of the case the CIT (A) erred in not condoning the delay in filing the appeal.**

3. That the CIT (A) erred in law and on the facts of the case confirming the addition of Rs.73,703/- made by the AO u/s 14A of the Act.

4. That the CIT (A) erred in law and on the facts of the case confirming the addition of Rs.3,38,852/- made by the AO on account of cessation of liability u/s 41 (1) of the Act.”

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessing Officer (AO) during scrutiny proceedings noticed that the assessee while computing the total income claimed deduction qua the expenditure incurred in relation to the income which does not form part of the total income and consequently proceeded to invoke the provisions contained under section 14A of the Income-tax Act, 1961 (for short ‘the Act’) and thereby made disallowance of Rs.73,703/-. AO also made addition of Rs.3,38,852/- on account of cessation of liability qua the amount due towards sundry creditors on failure of the assessee to furnish any proof to support that liability still exists during the year under assessment.

3. Assessee carried the matter before the Id. CIT (A) by way of filing the appeal who has confirmed the same after dismissing the appeal in limine. Feeling aggrieved by the order passed by the Id. CIT (A), the assessee has come up before the Tribunal by way of filing the present appeal.

4. Assessee has not preferred to put in appearance despite issuance of the notice and consequently, we proceeded to decide the present appeal with the assistance of the Id. DR as well as on the basis of documents available on the file.

5. We have heard the Id. Departmental Representative for the revenue to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

6. Bare perusal of the impugned order passed by the Id. CIT(A) goes to show that the appeal before the Id. CIT (A) was filed with delay of 480 days. Ld. CIT (A) has declined to condone the delay by dismissing the appeal in limine. Assessee put forth divorce/matrimonial/penal proceedings filed by his daughter-in-law against the entire family which have not been accepted by the Id. CIT (A) and dismissed the appeal in limine. We are of the considered view that multiple matrimonial/penal proceedings launched by the daughter-in-law against the assessee's entire family is a sufficient reason beyond the control of the assessee and sufficient to condone the delay, hence Id. CIT (A) has erred in not condoning the delay and is ordered to be condoned it and consequently directed to dispose off the appeal on merit, after providing an opportunity of being heard to the assessee. Consequently, the appeal filed by the assessee is allowed.

Order pronounced in open court on this 29th day of January, 2021.

Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

Dated the 29th day of January, 2021
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-5, Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.