

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C' NEW DELHI**

(Through Video Conferencing)

**BEFORE SHRI G.S. PANNU, VICE PRESIDENT
AND
SHRI K.N. CHARY, JUDICIAL MEMBER**

ITA No. 9593/Del/2019

Assessment Year: 2011-12

Shri Rajeev Kumar Aggarwal, B-9, Vivek Vihar, New Delhi-110095 (PAN: ACBPA0668B)	vs	ACIT, Circle - 55(1), New Delhi.
(Appellant)		(Respondent)

Appellant by: Ms Kriti Bindal, CA

Respondent by: Shri M. Barnwal, Sr. DR

Date of hearing : 10.02.2021

Date of pronouncement : 10.02.2021

ORDER

PER G.S. PANNU, VICE PRESIDENT

This appeal by the assessee is directed against the order of learned Commissioner of Income Tax(A)-30, New Delhi dated 29.08.2019 and pertains to assessment year 2011-12.

2. When this matter was called, Ms Kriti Bindal, CA, appearing on behalf of the appellant, submitted that there is an inadvertent delay in filing of the appeal before the Tribunal. According to the applicant, there is a delay of 48 days in filing of appeal which is for bona fide unintentional reasons. Vide an application dated 13.12.2019 seeking condonation of delay in filing of appeal, it

is canvassed that when the impugned order dated 29.8.2019 was passed by the Commissioner of Income Tax(A), it was duly uploaded on the e-filing portal of the assessee, whereas no intimation by post or even email was received from the office of the Commissioner of Income Tax(A). The assessee got to know about the passing of the order only when the e-portal was checked on 27.11.2019, which led to the delay in filing of appeal. It is also pointed out that no signed copy of the impugned order was available on the e-portal, which was obtained from the office of the Commissioner of Income Tax(A) on 11.12.2019 and, accordingly, the appeal was filed with the Tribunal on 16.12.2019. For all the above reasons, the delay was caused in filing of the appeal before the Tribunal. The reasons canvassed by the assessee have also been averred through an affidavit dated 13.12.2019 which is on record.

3. Considering the submissions put forth from both sides, we find that there is sufficient reason in this matter which would merit condonation of delay in filing of the appeal because the bona fides of the reasons are not in dispute. It is also noticeable that after the assessee came to know about the passing of order, he has taken prompt steps in filing the appeal before the Tribunal. For all the above reasons, the delay is condoned.

4. Further, the learned counsel for the assessee, vide communication dated 05.02.2021, has submitted that the assessee intimated that the assessee has opted to settle the dispute relating to the tax arrears for the assessment year

under consideration under the Vivad Se Vishwas Act, 2020 (in short 'the Act') and requested for withdrawal of the said appeal.

5. Considering the aforesaid situation, the captioned appeal is consigned to records and treated as dismissed.

6. However, the aforesaid is subject to a caveat that in case the dispute relating to tax arrears for the captioned assessment year is not ultimately resolved in terms of the aforesaid Act, the appellant (i.e., the assessee) shall be at liberty to approach the Tribunal for reinstatement of the appeal and the Tribunal shall consider such application appropriately as per law. The respondent (i.e., the Revenue) has no objection with regard to the aforesaid caveat.

7. In view of the aforesaid, the appeal is consigned to record and, for statistical purposes, is treated as dismissed.

Above decision was announced on conclusion of Virtual Hearing in the presence of both the parties on 10th February, 2021.

Sd/-
(K.N. CHARY)
JUDICIAL MEMBER

Sd/-
(G.S. PANNU)
VICE PRESIDENT

'GS'

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

By Order

Assistant Registrar