

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

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER  
AND  
SHRI K.N. CHARY, JUDICIAL MEMBER**

**ITA No. 77/DEL/2021 ( A.Y 2015-16)  
(THROUGH VIDEO CONFERENCING)**

Indianroots Retail Private Ltd. Vs	DCIT
Building No. 55, FF,	Circle 12(1)
Punchkuian Marg,	New Delhi.
Near Ramakrishna Ashram	
Metro Station,	
Connaught Place, New Delhi.	
PAN No. AADCJ2494H	

**(APPELLANT)**

**(RESPONDENT)**

<b>Appellant by</b>	<b>S/Sh. K.M. Gupta &amp; Rohit Tiwari, Adv. Sanjeev Gupta, AR</b>
<b>Respondent by</b>	<b>Ms. Sunita Singh, CIT DR</b>

<b>Date of Hearing</b>	<b>18.02.2021</b>
<b>Date of Pronouncement</b>	<b>18.02.2021</b>

**ORDER**

**PER K. NARASIMHA CHARY, JM**

Aggrieved by the order dated 27/6/2019, in appeal No. 178/18-19/CIT (A)-22, New Delhi passed by the learned Commissioner of Income Tax (Appeals) ("Ld. CIT(A)"), in the case of M/s Indian Roots private limited ("the

assessee”) for the assessment year 2015-16 which disposed of the appeal ex parte and dismissed the same in limine, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is a wholly-owned subsidiary of Indianroots shipping Ltd and was a part of NDTV group during the assessment year 2015-16. They have filed their return of income for the assessment year 2015-16 showing a loss of Rs. 10, 86, 33, 547/-. Subsequently one Nameh Hotels and Resorts Private Limited acquired the ownership of the assessee on 5/5/2017 from the ATV group, resulting in the handing over of assets/documents/files/soft data between the parties. Assessment under section 143(3) of the Income Tax Act, 1961 (for short “the Act”) was made on 29/12/2017 by making certain additions and data loss of Rs. 8, 76, 19, 009/-. Aggrieved by such an assessment assessee appeal preferred before the Ld. CIT(A) .

3. At this stage, pursuant to such change of control, the existing directors of the assessee resigned from the Board of Directors by 7/3/2018 and 29/3/2018 respectively but no new Directors were appointed in their place. Further during the course of the proceedings before the Ld. CIT(A), an application against the Indianroots Shipping was filed by the operational creditor under section 9 of the insolvency and the bankruptcy code, 2016 and by order dated 13(3) of the Act 2019 the NCLT, Delhi appointed Mr Ashok Kumar as the interior resolution professional and the board of the Indian roots the shipping was suspended, thereby the process of appointing

the new Directors to the assessee company was vested in the RP of the Indian roots shipping.

4. According to the assessee, in such circumstances the appeal before the Ld. CIT(A) could not be properly prosecuted and it resulted in the dismissal of the same on the presumption that the assessee did not want to pursue the appeal and that is the reason why there was no effective prosecution of the same.

5. Subsequently, the RP was requested and also an application was filed before the NCLT seeking directions to the RP per taking appropriate steps for appointment of the Directors. Pursuant to the order dated 1/12/2020, passed by the NCLT, Directors were appointed and expeditious steps have been taken for filing of the appeal, with a petition to condone the delay that occurred in the above circumstances and also due to the pandemic.

6. Ld. AR submitted that the facts stated above resulted in the filing of the delay with 522 days and such delays not for want of any diligence on the part of the assessee but due to the circumstances beyond their control. He submitted that the reasons pleaded for condonation of delay are equally applicable to the reason for non-prosecution of the appeal before the Ld. CIT(A). He prayed that the delay may be condone and the appeal may be remanded to the file of the Ld. CIT(A) for disposal afresh after giving an opportunity to the assessee.

7. Ld. DR submitted that all the facts pleaded by the Ld. AR are a matter of record and that since the appeal was not disposed of on merits, it may be remanded to the file of the Ld. CIT(A) in direction to the assessee to cooperate with the Ld. CIT(A) for disposal of the matter on merits.

8. We have gone through the record in the light of the submissions made on either side. The uncontroverted facts pleaded on behalf of the assessee as to the acquisition of the holding company by Nameh Hotels, resignation of the existing directors and the delay occurred in appointing a new Directors by the process of law - according to us, do constitute sufficient cause for filing the appeal with a delay. In the circumstances we are inclined to allow the plea taken by the assessee and to condone the delay. Since both the parties submitted that the appeal by the Ld. CIT(A) was not disposed of on merits, and the reasons applicable to condone the delay are equally applicable to set aside the impugned order and to remand the appeal to the file of the Ld. CIT(A) for fresh disposal after giving an opportunity to the assessee of being heard, we are inclined to set aside the impugned order and restore the appeal to the file of the Ld. CIT(A) for fresh disposal according to law after affording an opportunity to the assessee of being heard.

9. In the result appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on this the 18<sup>th</sup> day of February, 2021 on conclusion of the hearing in virtual mode.

Sd/-

**(O.P. KANT)**  
**ACCOUNTANT MEMBER**

Dated:18/02/2021

\*Kavita Arora

Sd/-

**(K.N. CHARY)**  
**JUDICIAL MEMBER**