

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH : BANGALORE**

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND  
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

<b>ITA No.1702/Bang/2019</b>
<b>Assessment Year : 2015-16</b>

Ms. Iris Cable and Broadband Pvt. Ltd., PNo.1132, Ground Floor, Anand MAC Building, 100 Feet Road, HAL 2 <sup>nd</sup> Stage, Indiranagar, Bengaluru – 560 038. <b>PAN : AADCI 2168 K</b>	Vs.	The Deputy Commissioner of Income Tax, Circle – 3(1)(1), Bengaluru.
APPELLANT		RESPONDENT
Assessee by	:	Shri. Gangadhar J. M, Advocate
Revenue by	:	Shri. Balakrishnan N, Addl. CIT(DR)(ITAT), Bengaluru
Date of hearing	:	25.02.2021
Date of Pronouncement	:	02.03.2021

**ORDER**

***Per N. V. Vasudevan, Vice President:***

This is an appeal by the assessee against the order dated 21.06.2018 of CIT(A)-3, Bengaluru, relating to Assessment Year 2015-16.

2. There is a delay of about 344 days in filing this appeal. The reasons for the delay in filing the appeal has been explained by Shri. Narendra Kumar, Director of the Assessee in an Affidavit filed before us. The reasons given therein are that the Assessee was being managed by the Executive Directors Arvind Kumar Mysore Bhaskar and Shankar Subrahmanya Bhat. They have been caught in multiple legal matters. In addition their premises were

occupied by a third party and they did not have access to their premises due to legal issues. Subsequently, they resigned from the Board of Directors on 30th March 2019. The Other Directors were not involved in day to day operations. Post resignation of these Directors, this matter has come to the notice of other Directors and they have decided to file appeal against the order of the CIT(A). According to the Assessee it could not file the appeal within the limit, because of the above genuine reasons.

3. Though the learned DR opposed the prayer of the assessee for condonation of the delay, we find that the reasons given for condonation of delay are acceptable. In this regard, we find the following details furnished by the assessee : (i) Copy of Articles of Association to show that the executive directors were Mr. Arvind Kumar M B and Mr Shankar S Bhat. (ii) Letter of resignation dated 30.3.2019 submitted regarding their resignation to the other directors who were not looking into the day to day affairs of the company. (iii) The contact details in the department portal of the other non-executive directors. The other directors who were not looking into the day to day affairs of the company started looking into the matters and realized the situation of the company. They came to know about the order passed against them when the matter was informed to them by the Assessing officer. After this on searching for the same, a copy of the order was received by them. The directors then filed an appeal with condonation before the Hon'ble Tribunal. This was done on 30th July 2019 within 4 months from the time the earlier directors had resigned. To show that the company was being managed earlier by the Executive Directors Arvind Kumar Mysore Bhaskar and Shankar Subrahmanya Bhat, financial statements signed by the two executive directors were also filed. It is also on record that the Assessee did not the actual number of days of delay in filing

the appeal before Tribunal as the copy of the order was not received and the same was obtained only subsequently on making further enquiries with the Assessing officer. We also find that the Assessee has filed a letter before the Office of the Hon'ble CIT(A) asking for the details of the order of CIT(A).Subsequently the other directors started looking into the legal actions against the earlier executive directors and the copy of the legal notice sent by the advocate is attached as Annexure-6. It is the plea of the Assessee that the shareholders and other directors shouldn't be penalised for the mistakes of two executive directors.

4. In the light of the above, we are of the view that the delay in filing the appeal was not wanton or deliberate. There has been no negligence on the part of the assessee. We therefore hold that there was a reasonable cause in filing the appeal belatedly and therefore the same is condoned.

5. As far as the merits of the order of the CIT(A) is concerned, it is seen that the order passed by the CIT(A) is an ex-parte order. The case of the assessee was fixed for hearing on 30.05.2018 and the notice of hearing was dispatched to the assessee on 16.04.2018 through speed post. The said notice was returned unserved with the postal department "assessee left". Subsequently, the representative of the assessee who attended the hearing before CIT(A) furnished new address of the assessee. The order of the CIT(A) mentions that there was service of notice for a subsequent hearing before CIT(A) on 18.06.2018. We have perused this notice and we find that on 5th June one Mr. Thiru has appeared before the CIT(A) and has received the notice fixing the appeal of the assessee for hearing on 18.06.2018. The service of notice stated to have been made by the office of CIT(A) as mentioned in para 3.1 of the impugned order is the service of the notice in person on 05.06.2018.

6. We are of the view that in the circumstances explained by the assessee regarding the affairs of the assessee company not having been properly looked into by the person incharge at the relevant point of time, the non-appearance of the assessee before the CIT(A) was owing to reasonable cause. In the given facts and circumstances of the case, we are of the view that the assessee should be afforded an opportunity of being heard before the CIT(A). We therefore set aside the order of the CIT(A) and remand the issues raised by the assessee in the appeal before CIT(A) for fresh consideration by the CIT(A) after affording assessee opportunity of being heard. The assessee is directed to co-operate in the set aside proceedings for expeditious disposal of the appeal by the CIT(A). The appeal of the assessee is accordingly treated as allowed for statistical purposes.

7. In the result, appeal by the assessee is allowed for statistical purposes.

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-

**(CHANDRA POOJARI)**  
**Accountant Member**

Bangalore,

Dated: 02.03.2021.

/NS/\*

Sd/-

**(N. V. VASUDEVAN)**  
**Vice President**

Copy to:

1. Appellants
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore.