

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH
(VIRTUAL COURT)

श्री एन.के.सैनी, उपाध्यक्ष एवं श्री आर.एल. नेगी, न्यायिक सदस्य
BEFORE: SHRI. N.K.SAINI, VP & SHRI , R.L. NEGI, JM

आयकर अपील सं./ ITA NO. 1541/Chd/2018

निर्धारण वर्ष / Assessment Year : 2008-09

M/s Kuber India Sales Pvt. Ltd. Near Airport, G.T. Road, Sahnewal Ludhiana, Punjab	बनाम	The ACIT C-V Rishi Nagar, Ludhiana Punjab
स्थायी लेखा सं./PAN NO: AACCK8010D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Ashwani Kumar, CA
राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 23/02/2021
उद्घोषणा की तारीख/Date of Pronouncement : 23/02/2021

आदेश/Order

PER N.K. SAINI, VICE PRESIDENT

This is an appeal by the Assessee against the order dt. 18/09/2018 of Ld. CIT(A)-2, Ludhiana.

2. The Registry has pointed out that the appeal is barred by limitation by 21 days. The assessee furnished an application for condonation of delay in filing the appeal which read as under:

Sub:-Application for condonation of delay in filing Form no.36.

1. Please refer to the order u/s 250(6) of Hon'ble CIT(A)-2, Ludhiana dated 18.09.2018, under appeal which was served to the company on 20.09.2018.

2. Form No. 36 of appeal to Hon'ble Appellate Tribunal was to be filed before 20.11.2018. But the same could not be filed with time limitation because Sh. J.P Kapoor, aged 75 years, who is my father, fell sick due to heart and psychiatry problems. He was under treatment at Guwahati and thereafter taken to Delhi also. Sh. J.P Kapoor is settled and running a business in Guwahati. Due to this, I

could not concentrate on filing of appeal procedure and other business matters, thereby filing of appeal got delayed beyond sixty days time limitation. Copy of the treatment documents at Guwahati and Delhi including medicines prescription list are enclosed herewith.

3. In view of the above, it is humbly prayed that the delay in filing of appeal of the company, occurred due to un-avoidable reason, may kindly be condoned and the appeal may kindly be admitted and heard according to the facts and merits of the case.

I hope you will find the above documents in order. In case any other information is needed, I will submit the same on hearing from your good office.

3. In support of the above application the assessee filed Doctor's prescription which is placed on record.

4. During the course of hearing the Ld. Counsel for the Assessee reiterated the contents of the aforesaid application and also submitted that due to illness of assessee's father and the assessee could not file the appeal in time and delay occurred which was beyond the control of the assessee. Therefore, the delay may be condoned. He also pointed out that the assessee wants to avail the immunity scheme under section 5(1) of the Direct Tax Vivad se Vishwas Act, 2020, therefore, the appeal of the assessee may be treated as withdrawn subject to the liberty to move an application for recall of the order in case the Department does not accept the application of the assessee.

5. Ld. DR in his rival submissions although opposed the application for condonation of delay and supported the order of the authorities below but could not controvert the aforesaid contention of the Ld. Counsel for the Assessee.

6. We have considered the submissions of both the parties and perused the material available on the record. In the present case it appears that the delay in filing the appeal occurred due to illness of the father of the assessee which was

beyond the control of the assessee. We therefore by taking a liberal view, condone the delay and the appeal is admitted.

7. In the present case, the assessee wants to avail the immunity scheme under section 5(1) of the Direct Tax Vivad se Vishwas Act, 2020. We, therefore treat this appeal as withdrawn with the rider that in case the Department does not accept the application of the assessee, then the assessee is at liberty to move the application for recalling of the order, in accordance with law.

7. In the result, appeal of the assessee is dismissed.

(Order pronounced in the open Court on 23/02/2021)

Sd/-

आर.एल. नेगी

(R.L. NEGI)

न्यायिक सदस्य/ Judicial Member

AG

Date: 23/02/2021

Sd/-

एन.के.सैनी,

(N.K. SAINI)

उपाध्यक्ष / VICE PRESIDENT

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File