

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH "B", CHANDIGARH
(VIRTUAL COURT)
BEFORE: SHRI. N.K.SAINI, VICE PRESIDENT AND
SHRI R.L. NEGI, JUDICIAL MEMBER**

ITA No. 1484/CHD/2019
Assessment Year : 2015-16

Punjab State Bus Stand Management Co. Ltd. Jeewandeep Building Sector-17 Chandigarh-	बनाम	The ACIT, C-2(1) Sector-17 Chandigarh
स्थायी लेखा सं./PAN NO. AADCP0762G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Smt. Kamakshi Mahajan, CA
राजस्व की ओर से/ Revenue by : Shri Ashok Kumar Khanna, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 03/03/2021
उद्घोषणा की तारीख/Date of Pronouncement : 03/03/2021

आदेश/Order

PER N.K. SAINI, VICE PRESIDENT:

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)-1, Chandigarh dt. 27/06/2019.

2. The Registry has pointed out that there was a delay of 71 days in filing this appeal. The Managing Director of the assessee company furnished an application dt. 18/11/2019 for condonation of delay stating therein as under:

The Applicant most respectfully pray and humbly submit as follows: -

- 1. I, Sh. Bhupinder Singh, Managing Director of Punjab State Bus Stand Management Company Limited (PUNBUS) knows the facts of the case.*
- 2. It is humbly submitted that this application is for condonation for delay is before Hon'ble Income Tax Appellate Tribunal, Chandigarh.*
- 3. It is humbly submitted that this prayer with a request for condonation of delay for an extension of time to file this appeal before this Hon'ble Income Tax Appellate Tribunal, Chandigarh.*
- 4. Commissioner of Income Tax (Appeals) has passed an order for sustaining the penalty imposed by Assistant Commissioner of Income Tax u/s 271(1)(c) of Income Tax Act, 1961 related to AY 2015-16.*

5. PUNBUS has preferred to file an appeal against the orders of Commissioner of Income Tax (Appeals) dated 27.06.2019 which was received on 10.07.2019. The limitation period for filing of appeal before Hon'ble Income Tax Appellate Tribunal is 60 days from the date of receipt of order. Whereas there is delay of **71** days in filing the appeal.

6. It is further submitted that PUNBUS is a wholly owned company of Government of Punjab which is being managed and controlled by the officers nominated by Government of Punjab from time to time. In the present case, the erstwhile Managing Director, Sh. Tejinder Singh Dhaliwal, IAS, retired on 31.08.2019 on account of superannuation and the office of Managing Director remained vacated till 25.09.2019.

7. I have joined as Managing Director of PUNBUS on 26.09.2019, in compliance to the orders dated 24.09.2019. (Copy attached). After my joining, I performed election duty assigned by the Government for the elections to be conducted in the state of Maharashtra from 04.10.2019 to 24.10.2019. (Copy attached).

8. It is humbly prayed that based upon the totality of the circumstances mentioned above this Hon'ble Income Tax Appellate Tribunal may be pleased to consider the prayer of the applicant in granting the condonation for delay in filing the appeal before this Hon'ble Income Tax Appellate Tribunal for justice and equity.

9. It is humbly submitted that this Hon'ble Income Tax Appellate Tribunal on scrutinizing facts and circumstances in the application, may please construe facts and circumstances as "sufficient cause" for condoning the delay.

10. The facts and circumstances elucidated in the application involves the question of "substantial justice", where gross delay of **71** days, deserves to be condoned in the overall interest of justice. On the other hand, if condoning the delay being denied it would seriously undermine the cause of justice, resulting into miscarriage of justice for the complainants.

3. During the course of hearing the Ld. Counsel for the Assessee reiterated the contents of the aforesaid application and submitted that delay occurred in filing the appeal as the post of the Managing Director remained vacant up to 25/09/2019 and after joining he was assigned the election duty therefore the delay in filing the appeal was beyond the control of the assessee company, he requested to condone the delay.

4. Ld. DR although opposed the condonation of delay but could not controvert the aforesaid contention of the Ld. Counsel for the Assessee.

5. We have considered the submissions of both the parties and perused the material available on the record. In our opinion the delay in filing the appeal was beyond the control of the assessee and there was no malafide intention, we therefore by keeping a liberal view and considering the peculiar facts of this case, deem it appropriate to condone the delay and the appeal is admitted.

6. The Ld. Counsel of the Assessee has furnished an application for withdrawal of this appeal stating therein as under:

Subject: Intimation of opting for Vivad se Vishwas Act, 2020 in the case of Appeal No. ITA 1484/Chandi/2019, M/s Punjab State Bus Stand Management Co. Ltd. for PAN-AADCP0762G AY 2015-16.

Hon'ble Sir,

Kindly refer to the matter referred as subject above. The hearing in the above mentioned case has been fixed for hearing on 03.03.2021. Meanwhile, the appellant had opted for VSVS-2020 and filed Form 1 & 2 on 27.02.2021 vide Receipt No. 276021831270221. **Copy of Form 1 and 2 is enclosed herewith. Therefore, your goodself honor is requested to acknowledge the same and withdraw the appeal. We shall be highly obliged.**

**Thanking You,
Yours faithfully,**

Sd/-
(Kamakshi Mahajan)
Chartered Accountants
Counsel for the appellant

7. During the course of hearing the Ld. Counsel for the Assessee submitted that assessee has opted 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 allowed to be withdrawn.

8. The Ld. DR did not object if appeal of the assessee is dismissed as withdrawn.

9. In view of the above the appeal of the assessee is dismissed as withdrawn.

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

(Order pronounced in the open Court on 03/03/2021)

Sd/-
(R.L. NEGI)
JUDICIAL MEMBER
Dated : 03/03/2021
AG

Sd/-
(N.K. SAINI)
VICE PRESIDENT

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. The CIT(A)
5. DR, ITAT, Chandigarh
6. Guard File