

**IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, MUMBAI
BEFORE SHRI SHAMIM YAHYA, AM AND SHRI AMARJIT SINGH, JM**

ITA No.4236/Mum/2019
(Assessment Year: 2014-15)

Omkar Multiprojects Pvt. Ltd. Flat-1402, 14 th Floor, Plot No. 76, Shree Nidhi CHS Ltd., Bhau Daji Road, Matunga, Mumbai-400 019	Vs.	Asst. CIT-15(2)(2), Mumbai
PAN/GIR No. AABCO 1172 H		
(Appellant)	:	(Respondent)

Appellant by	:	Shri Neelkanth Khandelwal
Respondent by	:	Shri Shreekala Pardeshi

Date of Hearing	:	16.02.2021
Date of Pronouncement	:	01.04.2021

ORDER

Per Shamim Yahya, A. M.:

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-24, Mumbai ('Id.CIT(A) for short) dated 29.11.2018, pertaining to the assessment year (A.Y.) 2014-15, wherein the Id. CIT(A) has dismissed the appeal for non-prosecution.

2. At the outset, it is noted that there is a delay of filing the appeal by 111 days. The reasonable cause for the delay has been attributed to the sudden resignation/absence of the Accountant who was the in-charge of these affairs. Upon hearing both the counsel, the delay is condoned.

3. Upon hearing both the counsel and perusing the records, we find that it is incumbent upon the Id. CIT(A) to pass an order on the merits of the case and not dismiss

the appeal for non-prosecution. For this purpose, we place reliance upon the following case laws:

1. *CIT vs. Premkumar Arjundas Luthra (HUF)* (2017) 154 DTR 302 (Bom)
2. *CIT vs. S. Chenniappa Mudaliar* (1969) 74 ITR 1 (SC)
4. Accordingly, in the interest of justice, we remit the issue raised in the appeal to the file of the Id. CIT(A). The Id. CIT(A) is directed to consider the issue afresh and pass an order on merits of the case, after giving the assessee proper opportunity of being heard.
5. The Id. Counsel of the assessee has also given undertaking that he shall appear before the Id. CIT(A) *suo moto* within two months of this order to canvas the appeal.
6. In the result, this appeal by the assessee stands allowed for statistical purposes.

Order pronounced under rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1962, by placing the details on the notice board on 01.04.2021

Sd/-
(Amarjit Singh)
Judicial Member

Sd/-
(Shamim Yahya)
Accountant Member

Mumbai; Dated : 01.04.2021

Roshani, Sr. PS

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai