

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "b", HYDERABAD

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

ITA No.328/Hyd/2020		
Assessment Year: 2014-15		
M/s. Spacenet Enterprises India Limited, Hyderabad. PAN: AADCN 3256 H	Vs.	DCIT, Circle-3(2), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri M. Bhupal Goud	
Revenue by:	Shri Rohit Mujumdar, DR	
Date of hearing:	21/6/2021	
Date of pronouncement:	05/7/2021	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT (A)-3, Hyderabad in appeal No.0759/CIT(A)-3, Hyd/2016-17, dated 20/07/2017 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY: 2014-15.

2. The assessee has raised three grounds in its appeal and they are extracted herein below for reference:-

- “1. *The Order of the Ld. CIT (A) passed U/s. 143(3) of the Act is against law and facts of the case.*
2. *The Ld CIT (A), Hyderabad erred in computing disallowance U/s. 14A at Rs. 61,83,192/- in respect of interest paid on borrowed*

*funds, while such funds were invested in business which yielded income which is not exempt from tax.*

3. *For these or any other grounds that may be urged at the time of hearing of the appeal”*

3. At the outset, the Ld. AR submitted before us that there is a delay of 988 days in filing the appeal before the Tribunal. In this regard, the assessee had submitted a petition for condonation of delay wherein the reasons for filing the appeal beyond the prescribed time limit was explained. For reference, the relevant portion from the affidavit is extracted herein below: -

*“The appellant submits that they are under the assumption that, the prior AY order has got a favourable order and they are under the assumption that a similar view also will come for the present AY. The accountant who has submitted the appeal on behalf of the company has resigned and the company has changed its corporate office due to a fire accident in the premises. The appellant submits that the above CIT (A) order was duly served on the appellant and received but the said accountant missed reporting it to the management. The CIT (A) order was lying along with other papers / documents unattended, until recently and upon noticing that the CIT (A) order has been received and that there exists a demand in the subject AY. Accordingly, the appellant decided to pursue the matter before your Honours and had filed an appeal on 29<sup>th</sup> June, 2020 with a delay of 988 days. The appellant humbly submits that the delay of 988 days in filing the appeal is for the reasons explained above and is not intentional. The company therefore prays the Hon’ble Income Tax Appellate Tribunal to kindly condone the delay and pass appropriate orders granting relief as prayed for.”*

4. On perusal of the affidavit filed by the assessee We find that the delay of 988 days in filing of the assessee’s appeal before the Tribunal has occurred due to sudden resignation of the assessee company’s accountant and shifting of the assessee company’s corporate office due to fire accident, therefore We are of the view that the assessee should

not be panelised. Hence, in the interest of justice, We hereby condone the delay of 988 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits.

4. At the outset, the Ld. AR submitted before us stating that the Ld. CIT (A) has passed ex-parte order without providing proper opportunity to the assessee of being heard. It was therefore pleaded that the matter may be remitted back to the file of the Ld CIT (A) in order to provide one more opportunity to the assessee of being heard. Ld. DR, on the other hand, vehemently opposed to the submissions of the Ld. AR and argued that sufficient opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee nor its Representative appeared before the Ld. CIT (A). Therefore the Ld. CIT (A) had no other option but to pass ex-parte order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A) does not call for any interference.

5. We have heard the rival submissions and carefully perused the materials on record. On examining the facts of the case and the order of the Ld. CIT (A), it is apparent that none appeared on behalf of the assessee before the CIT(A) on the dates of hearing. Therefore, the Ld. CIT (A) was left with no other option except to adjudicate the appeal ex-parte. In this situation, We do not find much strength in the arguments

advanced by the ld. AR. However, considering the prayer of the Ld. AR as well as the issues involved in the appeal, in the interest of justice, We hereby remit the matter back to the file of Ld. CIT (A) in order to consider the appeal afresh on merits by providing one more opportunity to the assessee of being heard. At the same breath, We also hereby caution the assessee to promptly co-operate before the Ld. CIT (A) in the proceedings failing which the Ld. CIT (A) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials on the record. It is ordered accordingly.

6.. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on the 05<sup>th</sup> July, 2021.

Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 05<sup>th</sup> July, 2021

OKK

Copy to:-

- 1) Spacenet Enterprises India Limited, 6-3-787, Royal Pavilion, Flat No.1003, Block-A, Ameerpet, Hyderabad.
- 2) DCIT, Circle-3(2), Signature Towers, 6<sup>th</sup> Floor, Kondapur, Hyderabad.
- 3) The CIT (A)-3, Hyderabad.
- 4) The Pr. CIT-3, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File