

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “F” BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.4721/Del/2018
Assessment Year : 2015-16**

Pelicon Finance & Leasing Ltd., 564, I.P.No.2/59, AF/F, Bhim Gali Vishwas Nagar, Shahdara, Delhi-110032. PAN-AADPC2968C	vs	ACIT, Central Circle-32, New Delhi.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Smt. Sushma Singh, CIT DR	
Date of Hearing	02.08.2021	
Date of Pronouncement	11.08.2021	

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2015-16 is directed against the order of Ld. CIT(A)-30, New Delhi dated 26.04.2018. The assessee has raised following grounds of appeal:-

1. *“That the facts and circumstances of the case Assessment order of the Ld.AO and dismiss petition of condonation of delay as non-maintainable of CIT(A) is bad in law.*
2. *On the fact and circumstances of the case the LD CIT(A) was not justified in dismiss petition of condonation of delay filing appeal (12 days) as non-maintainable without consider the facts evidence submission made by appellant in correct prospective.*

3. *On the fact and circumstances of the case the LD CIT(A) was dismiss appeal as non-maintainable against the principal of natural justice with appellants and not grant proper opportunity to appellants submit submission to justified and consider the appeal Ground No.3 & 4.*

4. *On the fact and circumstances of the case the LD CIT(A) erred to dismiss petition of condonation of delay as non-maintainable not grant proper opportunity to appellants submit submission to justified and consider the appeal on investment in share transfer from opening stock to investment in shares Rs.11,03,79,050/- made addition u/s 68 of Rs.11,03,79,050/- by Ld.AO.*

5. *On the fact and circumstances of the case the LD.CIT(A) erred to dismiss petition of condonation of delay as non-maintainable not grant proper opportunity to appellants submit submission to justified and consider the appeal on disallowance and other expenses Rs.23,176/- by Ld.AO.”*

2. At the time of hearing, no one appeared on behalf of the assessee. From the records, it is seen that the appeal filed before Ld. CIT(A), was dismissed being barred by time. It is seen that the appeal filed by the assessee was barred by 12 days. The delay in filing of appeal was not condoned and the appeal of the assessee was dismissed.

3. Ld.CIT DR supported the orders of the Ld.CIT(A) and submitted that the conduct of the assessee was thoroughly negligent.

4. We have heard Ld.CIT DR and perused the impugned order. We find that before Ld.CIT(A) the assessee had filed an application for condonation of delay of 12 days. The reasons stated in the application were that the delay was on

account of office of Ld. Counsel of the assessee. The assessee had handed over the assessment order received on 13.12.2017 to his counsel but due to oversight at the office, appeal could not be filed. We find that this appeal was dismissed by Ld.CIT(A) by observing as under:-

5. *“I find that the appellant has filed the petition for condonation of delay only upon being required. The petition of the appellant is filed in a very casual manner without any affidavit. Infact, each day of delay has to be explained truthfully and should be supported by affidavit(s)/evidence(s). The appellant has failed to do so. The casual manner in which the appeal was filed belatedly, is clear from the fact that the petition for condonation of delay was filed only upon being required, and that too in a perfunctory manner. Thus, the appellant has not been able to establish before me if he had sufficient cause for not presenting the appeal in time. As such, the appellant's appeal is hereby dismissed as non-maintainable.”*

5. The reasoning for dismissal of appeal as recorded by the Ld. CIT(A) is not justified. Ld.CIT(A) ought to have been given opportunity to the assessee if there was any defect into the application. Therefore, considering that there was a small delay of 12 days and the assessee has demonstrated a reasonable cause for delay in filing of the appeal before Ld.CIT(A). We, therefore, condone the delay in the interest of principles of natural justice and restore the grounds to the file of Ld.CIT(A) to decide the grounds on merit by way of a speaking order. Thus, grounds raised by the assessee in this appeal are allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Above decision was pronounced on conclusion of Virtual Hearing on 11th August, 2021.

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Amit Kumar

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI