

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

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

|   |                           |                                     |  |
|---|---------------------------|-------------------------------------|--|
|   | ITA No.2205/Hyd/2018      |                                     |  |
|   | Assessment Year: 2012-13  |                                     |  |
|   |                           |                                     |  |
| Structural Solutions<br>Private Limited,<br>Hyderabad.<br>PAN: AAICS 5620 D | Vs.                       | DCIT,<br>Circle-3(2),<br>Hyderabad. |  |
| (Appellant)   |                           | (Respondent)                        |  |
|   |                           |                                     |  |
| Assessee by:  | Shri M.V. Anil Kumar      |                                     |  |
| Revenue by:   | Shri Vijay Garladinne, DR |                                     |  |
|   |                           |                                     |  |
| Date of hearing:  | 28/07/2021                |                                     |  |
| Date of pronouncement:  | 29/07/2021                |                                     |  |

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. 0179/DCIT-3(2)/Hyd/CIT(A)-3/20-15-16, dated 18/06/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY : 2012-13.

2. At the outset, the Ld. AR submitted before us that there is a delay of 68 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: -

*"I am well aware of the facts of the case. The order of the Commissioner of income Tax (Appeals)-3, Hyderabad under section 250, dated 18/06-2018 was received by us on 17/07/2018. We have handed over the order copy to our tax consultants M/s. M. Anandam & Co., Chartered Accountants on 20/08/2018. Our tax consultants were busy with filing of individual returns and corporate returns and forgot to file the Form 36. Sri M.V. Anil Kumar informed us of the delay and set the Form 36 along with petitions for condonation of delay and affidavit.*

*On enquiry, we have been informed that due date for filing of the appeal is 16-09-2018. I have signed them on 22/11/2018 and sent for submission. As a result, there is a delay in filing the appeal by about 68 days. The delay is not intentional or liberate but on account of non-receipt of the order and form for signature well before the due date of filing of the same."*

3. On perusal of the affidavit filed by the assessee We find that the delay of 68 days in filing of the assessee's appeal before the Tribunal has occurred due to negligence of the assessee's Counsel and not attributable to the assessee. 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 68 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits.

4. At the outset, Ld.AR submitted before us that the assessee desires to withdraw his appeal as the assessee has opted to avail 'Vivad Se Viswas' scheme. He further submitted that the assessee had filed Form No.1 & 2 and Form-3 was also received from the Revenue. It was therefore pleaded, that the appeal of the assessee may be allowed to be withdrawn.

5. The Ld. DR conceded to the request of the Ld.AR.

6. Having heard both the sides through video conference, We are inclined to allow the appeal of the assessee to be withdrawn yielding to the prayer of the Ld. AR as the assessee has preferred to avail the Vivad-se-Vishwas Scheme by filing Forms No.1, 2 and Form No.3 was also received from the Revenue. The Ld. DR has also conceded to the request of the Ld. AR. Accordingly, We hereby dismiss the appeal of the assessee as withdrawn. However, We also make it clear that, if the assessee's case is not accepted in the Vivad-Se-Viswas scheme by the Revenue for whatsoever may be the reason, then the assessee shall be at liberty to file a Miscellaneous Petition before the Tribunal within the time limit prescribed under the Act to reinstate the appeal. It is ordered accordingly.

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

Pronounced in the open Court on the 29<sup>th</sup> July, 2021.

Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 29<sup>th</sup> July, 2021

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Copy to:-

- 1) Structural Solutions Private Limited, C/o. M. Anandam & Co., Chartered Accountants, Flat No.7!, Surya Towers, S.P. Road, Telangana – 500 003.
- 2) The Deputy Commissioner of Income Tax, Circle-3(2), Signature Towers, Hyderabad.
- 3) The CIT (A)-3, Hyderabad.
- 4) The Pr. CIT-3, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File