

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.:2493/CHNY/2019

निर्धारण वर्ष / Assessment Year: 2009-10

Smt. Prema Umed Mehta,
Director of M/s. Kesaria Marketing
Pvt. Ltd.,
Kent Apartments, Flat No.31,
No.26, Ritherdon Road,
Vepery, Chennai - 600 007.

The ACIT,
v. Company Circle II(4),
Chennai - 34.

PAN: AADPM 2150L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri D. Anand, Advocate
: Shri G. Johnson, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 22.09.2021

घोषणा की तारीख/Date of Pronouncement

: 22.09.2021

आदेश /O R D E R

Per G Manjunatha, AM:

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-9, Chennai dated 21.06.2019 and pertains to assessment year 2009-10.

2. The assessee has raised the following grounds of appeal:-

- 1) The order of the CIT(A) is contrary to the law, facts and circumstances of the case.
- 2) The CIT(A) erred in dismissing the appeal on the ground that the delay in filing the appeal was not properly explained.
- 3) The CIT(A) having noticed that the appellant was not keeping good health and had to travel out of Chennai for treatment and hence the appeal could not be filed within the period of limitation, ought to have condoned the delay by exercising his discretion in a judicious manner.
- 4) The CIT(A)'s order violates the principles of natural justice on the ground that adequate opportunity was not given to adduce proof for her ill health.
- 5) The CIT(A) ought to have dealt with the merits of the case after condoning the delay in filing the appeal as the appellant could not file the appeal within time and delay was not wanton or intentional.
- 6) The appellant craves leave to adduce additional grounds of appeal at the time of hearing.

3. The brief facts of the case are that the assessee is an individual and director of M/s. Kesaria Marketing Pvt. Ltd., filed her return of income for the assessment year 2009-10 on 01.08.2009 admitting total income of Rs.10,82,875/-. A survey u/s.133A of the Income Tax Act, 1961 (hereinafter the 'Act') was conducted in Kesaria Marketing Pvt. Ltd., along with other group companies, which were floated by Mr. Umed Mehta. During the survey, it was admitted by Mr. Umed Mehta that he has not indulged in any mining activities, as claimed in the books and was getting some income receipts from M/s. Kawarlal & Co. In order to accommodate such

income receipts, bogus credits were introduced in the books to claim expenses towards non-existing mining operations. The case has been taken up for scrutiny and during the course of assessment proceedings, the AO has made additions towards sundry creditors u/s.68 of the Act, on the ground that the assessee has not produced any confirmation from the parties. The AO had also made additions towards credits in the bank account on the ground that the assessee was not able to produce copy of bank statement. The assessee preferred an appeal before the CIT(A) and challenged various additions made by the AO and such appeal was delayed by 24 days. The assessee has filed petition for condonation of delay before the CIT(A) and argued that the assessee had fell sick and was out of station for treatment and this resulted in delay of 24 days in filing the appeal. The Id.CIT(A) after considering relevant submissions of the assessee and also by following judicial precedents including the decision of Hon'ble Punjab & Haryana High Court in the case of CIT vs. Ram Mohan Kabra, (2002) 257 ITR 773 dismissed appeal filed by the assessee by rejecting the request for condonation of appeal. Aggrieved by the CIT(A) order, the assessee is in appeal before us.

4. At the time of hearing, the Id.AR for the assessee submitted that the Id.CIT(A) has dismissed the appeal filed by the assessee

without condoning the delay of 24 days in filing appeal and hence, the delay may be condoned and appeal may be set aside to the Id.CIT(A) to decide the issues in accordance with law.

5. The Id.DR on the other hand opposing condonation of delay application filed by the assessee before the CIT(A) submitted that the reasons given by the assessee for condonation of delay does not come under reasonable cause, as provided under the Act and hence, there is no merit in arguments of the assessee for remanding the matter back to the file of the Id.CIT(A).

6. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We have given our thoughtful consideration to the reasons given by the Id.CIT(A) to dismiss the appeal on technical grounds and arguments advanced by the Id.AR for the assessee and we ourselves do not subscribe to the reasons given by the CIT(A) to dismiss the appeal without discussing the issues on merits because the assessee has explained reasons for delay of 24 days in filing appeal before the CIT(A), as per which the appellant was sick and was under treatment which resulted in small delay of 24 days. In our considered view, reasons given by the assessee for condonation of

delay in filing the appeal appears to be reasonable and bonafide and further, comes under reasonable cause as provided under the Act and hence, the Id.CIT(A) ought to have condoned delay in filing the appeal to advance substantial justice. Hence, by considering the reasons given by the assessee for condoning delay, we direct the Id.CIT(A) to condone delay in filing the appeal and decide the issue involved in appeal on merits.

6. In the result, appeal filed by the assessee is treated as allowed for statistical purpose.

Order pronounced in the court on 22nd September, 2021 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

Sd/-
(जी. मंजुनाथ)
(G. MANJUNATHA)
लेखा सदस्य /ACCOUNTANT MEMBER

चेन्नई/Chennai,
दिनांक/Dated, the 22nd September, 2021

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |