

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

ITA No.1693/Hyd/2018		
Assessment Year:2014-15		
Smt. Mitu Parakh, Hyderabad. PAN: AHPPP 9449 L	Vs.	Income Tax Officer, Ward-5(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri T. Chaitanya Kumar for Sri K.A. Sai Prasad	
Revenue by:	Sri Rohit Mujumdar for Sri Y.V.S.T. Sai, DR	
Date of hearing:	01/09/2021	
Date of pronouncement:	16/09/2021	

ORDER

This appeal is filed by the assessee against the order of the ld. CIT (A)-4, Hyderabad in appeal No. 0371/16-17/ITO, Wd.5(1)/CIT(A)-4/Hyd/18-19, dated 09/05/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY: 2014-15.

2. At the outset, the Ld. AR submitted before me that there is a delay of 26 days in filing the appeal before the Tribunal. In this regard, the assessee had submitted an affidavit 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: -

“.....

.....

Appeal was filed before the CIT (A)-4, Hyderabad the same was disposed off rejecting the grounds of appeal. The appeal order dated 09/05/2018 was served on 19/05/2018. The appeal order received was misplaced by me. The appeal is to be filed on or before 17/7/2018. Since the appeal is filed on 13/08/2018 there is a delay of 26 days, the delay in filing the appeal is attributable to me.

.....”

3. On perusal of the affidavit filed by the assessee I find that the delay of 26 days in filing of the assessee’s appeal before the Tribunal has occurred as the Order of the Ld.CIT (A) was misplaced by the assessee. This act of negligence on the part of the assessee cannot be appreciated. However, I am of the view that since the assessee has opted to avail Vivad-se-Vishwas Scheme the assessee should not be prevented from availing the benefit under the scheme on this ground. Hence, in the interest of justice, I hereby condone the delay of 26 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits.

4. At the outset, Ld.AR submitted before me that the assessee desires to withdraw her 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therefore pleaded, that the appeal of the assessee may be allowed to be withdrawn.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, I am 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, I hereby dismiss the appeal of the assessee as withdrawn. However, I 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 16th September, 2021.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 16th September, 2021.

OKK

Copy to:-

- 1) Mitu Parakh, C/o. Ch. Parthasarathy & Co., 1-1-298/2/B/3, 1st Floor Sowbhagya Aenue, St. No.1, Ashoknagar, Hyderabad-500 020.
- 2) The Income Tax Officer, Ward-5(1), 3rd Floor, D-Block, IT Towers, AC Guards, Hyderabad - 4.
- 3) The CIT (A)-4, Hyderabad.
- 4) The Pr. CIT-4, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File