

**IN THE INCOME TAX APPELLATE TRIBUNAL "A"**  
**(Virtual Court Hearing) BENCH KOLKATA**

**Before Shri P. M. Jagtap, Vice-President and  
Shri Partha Sarathi Choudhury, Judicial Member**

**I.T.A. No.894/Kol/2018**  
Assessment Year: 2011-12

**Andaman And Nicobar Island  
Integrated Development Corporation Ltd.....Appellant**  
Chief Financial Officer,  
The Andaman And Nicobar Island  
Integrated Development Corporation Limited,  
Vikas Bhawan, Port Blair,  
Andaman & Nicobar Islands-744101.  
**[PAN:AACCA4070B]**

**vs.**

**DCIT, Port Blair.....Respondent**

**Appearances by:**

Shri Akkal Dudhwewala, FCA, appeared on behalf of the appellant.

Shri Biswanath Das, Addl. CIT-Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : November 08, 2021

Date of pronouncing the order : November 08, 2021

**ORDER**

**Per Shri P. M. Jagtap, Vice-President:**

This appeal preferred by the assessee emanates from the order of Ld. CIT(A)-1, Kolkata dated 12.02.2018 for the assessment year 2011-12 as per the following grounds of appeal:

*"1) For that on the facts and in the circumstances of the case, the CIT(A) was grossly unjustified in law and on facts in dismissing the appeal stating that the appeal was filed with a delay of 932 days whereas the appeal was filed within 30 days from the date of passing of the assessment order.*

*2) For that on the facts and in the circumstances of the case, the CIT(A) was grossly unjustified in law and on facts in dismissing the appeal and without dealing with the grounds of appeal on merits be held unsustainable and be therefore cancelled and/or set aside.*

*3) For that on the facts and in the circumstances of the case, the order of the CIT(A) dismissing the appeal by treating it is not admitted at the admission stage be held unsustainable and be therefore cancelled and/or set aside.*

*4) For that on the facts and in the circumstances of the case, the disallowance of Rs 17,84,000/ towards performance related incentive to employees is wholly unjustified on facts and in law and deserves to be deleted in full.*

*5) For that on the facts and in the circumstances of the case, the lower authorities erred on facts and in law in disallowing sum of Rs. 4,69,349/- towards prior period expenses even though the expenses were crystallized during the year. The impugned disallowance deserves to be deleted in full.*

*6) For that the appellant craves leave to file additional grounds and / or amend or alter the grounds already taken either before or at the time of hearing of the appeal.”*

2. At the very outset the Ld. counsel for the assessee has submitted that in this case the Ld. CIT(Appeals) has not dealt with the merits of the case and has dismissed the appeal by not condoning the delay. The rights and liabilities of the parties herein so far as merits are concerned were yet to be determined at the First Appellate stage. It was further submitted by the Ld. counsel that the number of days of delay as calculated by the Ld. CIT(Appeals) from the date of order u/s 143(3), that date itself is erroneously observed by the Ld. CIT(Appeals) as 28.03.2014 whereas the actual date was 08.10.2016. Thereafter, the assessee has received the order and from that date of filing of appeal before the Ld. CIT(Appeals) actually there was a delay of only 10 days which should have been condoned. In the alternative, the Ld. counsel prayed for one more opportunity to represent his case on merits before the Ld. CIT(Appeals) so that the rights and liabilities of the parties herein could be ascertained in this case.

3. The Ld. DR did not raise any serious objection if the matter was remitted to the file of the Ld. CIT(Appeals).

4. Having heard the parties and in the interest of justice, we find that there are some discrepancies on the dates of the proceedings as started from the assessment on the date of which the order received by the assessee and the date of filing of the appeal before the Ld. CIT(Appeals). We are of the considered view that the matter be remitted back to the file of the Ld. CIT(Appeals) so that he can ascertain the correctness of the various dates involved and adjudicate the case on merits as per law while complying with the

principles of natural justice. We set aside the order of the Ld. CIT(Appeals) and order accordingly.

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

Order is pronounced in the open court on 08.11.2021.

Sd/-  
**[Partha Sarathi Chaudhury]**  
Judicial Member

Sd/-  
**[P. M. Jagtap]**  
Vice-President

Dated: 08.11.2021.

RS

*Copy of the order forwarded to:*

1. Andaman And Nicobar Island Integrated Development Corporation Ltd.
2. DCIT, Port Blair
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Sr.PS/D.D.O, Kolkata Benches