

आयकर अपीलिय अधिकरण “SMC” न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI

श्री महावीर सिंह, उपाध्यक्ष के समक्ष ।

BEFORE SRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ ITA No. 6080/Mum/2019

(निर्धारण वर्ष / Assessment Year 2011-12)

Iris Business Services Limited T-231, Tower 2, 3 rd Floor, International Infotech Partk, Vashi, Navi Mumbai-400703	Vs.	The Income Tax Officer, Ward 15(2)(1), Aayakar Bhavan, Maharshi Karve Road, Mumbai-400 020
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAACI9260R		

अपीलार्थी की ओर से / Appellant by	:	Shri K Balchandran, AR
प्रत्यर्थी की ओर से / Respondent by	:	Shri V.K. Chaturvedi, DR

सुनवाई की तारीख / Date of hearing:	05.10.2021
घोषणा की तारीख / Date of pronouncement :	05.10.2021

आदेश / ORDER

महावीर सिंह, उपाध्यक्ष के द्वारा /
PER MAHAVIR SINGH, VP:

This appeal of the assessee is arising out of order of the Commissioner of Income Tax (Appeals)-24, Mumbai [in short CIT(A)], in appeal No. CIT(A)-24/ACIT-15(2)(1)/IT-636/2016-17 vide dated 25.04.2019. The Assessment was framed by the Income Tax Officer, Ward-15(2)(1) Mumbai (in short ITO/ AO) for the A.Y. 2011-12 vide order dated 24.12.2018 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. At the outset, it is noticed that this appeal is barred by limitation of 73 days and assessee filed condonation petition stating that the orders of CIT(A) was served to assessee on 15.05.2019 and appeal was supposed to be filed by 15.08.2019



but could not file the same on time and hence, there is a delay of 73 days. The learned Counsel for the assessee drew our attention to the affidavit filed by the assessee and states the reason for delay, the same read as under:-

“the CIT(A) passed the vide order NO. CIT(A)-24/ACIT-15(2)(1)/IT-636/2016-17 on 25/04/2019. Since the order was initially uploaded on the website and intimation of it received on email, the person whose email id was given, did not realize it. When the physical copy was later received and forwarded to the taxation department around mid of May 2019, the concerned official of the company, was on leave, and shortly after the same, he also quit the Company. So the physical copy of the CIT(A) order was kind of misplaced and on nonce was aware of it's experience.

Our consultant, also having gone out of the country on vacation, during the month of May/ June and the people handling taxation also not aware of this situation, this lapse was later realized in only August. Only then the Appellant searched for the Hard copy received and could retrieve the physical copy.

Then during the preparation of the Appeal to ITAT as well as the condonation of delay, the Appellant realized the CIT(A)'s order received, had couple of pages missing, including in the one uploaded in the website. Subsequently, the Appellant made an application to CIT(A) to issue a fresh copy of the order, which was handed over us on 17.09.2019.



These incidents lead to delay of one and half months, we therefore sincerely request you to condone this delay and accept our appeal to be heard on merits.”

3. When these were confronted to Ld. Sr. DR, he fairly conceded that the delay can be condoned and accordingly, the delay is condoned and appeal is admitted.

4. The registry placed on record assessee's letter wherein it has been submitted that the assessee has opted for settlement of dispute for all the years under Direct Tax Vivad Se Vishwas Scheme (VSVS Scheme), 2020 and already received Form No.3 from appropriate authority. The Ld. DR did not raise any objection against the same.

5. In view of foregoing, the appeal stand dismissed as withdrawn with a liberty to assessee to seek restoration of the appeal in case the aforesaid declaration filed under the scheme is not accepted, for whatever reasons.

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

Order pronounced in the open court on 05.10.2021.

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

मुंबई, दिनांक/ Mumbai, Dated: 05.10.2021

सुदीप सरकार, व.निजी सचिव / Sudip Sarkar, Sr.PS



आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai