

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "C", BANGALORE**

Before Shri George George K, JM & Shri B.R.Baskaran, AM

ITA No.1078/Bang/2019 : Asst.Year 2010-2011

M/s.Regional Transport Officer Rajajinagar (West) Rajajinagar Shopping Complex Post Office Road Rajajinagar Bangalore – 560 010. TAN : BLRR01368D.	v.	The Income Tax Officer (TDS) Ward 18(2) Bangalore.
(Appellant)		(Respondent)

Appellant by : Sri.Siddesh Gaddi, CA

Respondent by : Smt.Priyadarshini Besaganni., JCIT-DR

Date of Hearing : 10.11.2021	Date of Pronouncement : 11.11.2021
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ORDER

Per George George K, JM:

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 28.03.2019. The relevant assessment year is 2010-2011. The order of the CIT(A) arises out of the order passed/s 201(1) and 201(1A) of the I.T.Act.

2. At the very outset, we notice that the CIT(A) had dismissed the appeal of the assessee *in limine* without condoning the delay of 2040 days in filing the appeal before him. The relevant finding of the CIT(A) in dismissing the appeal *in limine* reads as follows:-

"8. I have considered the above submission and do not find any merit in the same. Even taking into consideration the reasons stated for the delay, the extended delay of 2,040 days or more than 5 years cannot be condoned. Even after the certified copy of the impugned order was received by the appellant on 16/01/2014, it has taken more than 3 years and 10 months after that date to file the appeal. On careful

consideration of all aspects of the issue, it is observed that the Appellant is negligent in filing the appeal resulting in delay. The Hon'ble Supreme Court in the case of Chief Postmaster General and Others vs Living Media India Ltd. And Another 5 ITA No. 35551/Del/2009 Asstt. Year: 2002-03 (2012) 348 ITR 7(SC) and in the case of Pundlik Jalam Patil (dead) by LRS vs Executive Engineer, Jalgaon Medium Project (2008) 17SCC 448 had held that when the conduct of the assessee and facts of the case clearly show the neglect of its own right in preferring appeals, then it is not expected from the judicial and quasi-judicial authorities to inquire into belated and stale claims on the ground of equity.

In view of above, as there is no basis to consider condonation of delay of 2040 days in the case of the appellant, the appeal of the appellant is dismissed as not admissible being filed beyond the statutory time limit.”

3. Aggrieved, the assessee has filed this appeal before the Tribunal. The learned AR submitted that on identical facts, the appeal of the assessee for assessment years 2010-2011 to 2012-2013 has been disposed of against the assessee by the ITAT in ITA Nos.607 to 609/Bang/2019 (order dated 27.09.2019). It was submitted that the same is pending in appeal before the Hon'ble High Court. It was, therefore, submitted that the case may be adjourned to any date convenient to the Hon'ble Bench.

4. The learned Departmental Representative relied on the order of the ITAT in assessee's own case cited supra.

5. We have heard rival submissions and perused the material on record. We noticed that on identical facts, the assessee's appeal for assessment years 2010-2011 to 2012-2013 (supra) has been dismissed by the Tribunal. The Tribunal confirmed the CIT(A)'s order, wherein the CIT(A) refused to condone the delay and dismissed the appeal of the assessee *in limine*. The relevant finding of the ITAT in

assessee's own case for assessment years 2010-2011 to 2012-2013, reads as follows:-

"7. In our opinion the circumstances explained in the condonation petition could not convince us and there seems to be a gross negligence on the part of the assessee where no priority was fixed and such lapses cannot be condoned. Following the decision of Tractors & Farms Equipments Ltd. (supra) where similar issue was dealt by the Tribunal negligence, inaction and inordinate delay in filing the appeal was not condoned and Law assists those who are vigilant and not those who sleep over their rights.

8. We, considering the facts and circumstances are not satisfied with the submissions of the ld. AR on delay and no reasonable cause was explained to condone the delay. Accordingly, we are not inclined to interfere with the order of the CIT (Appeals) in rejecting the condonation of delay in filing the appeal and confirm the action of the CIT (Appeals) and dismiss the assessee's appeal."

6 Since the facts in this case are identical to the facts concerning assessment years 2010-2011 to 2012-2013, the appeal of the assessee is dismissed. It is ordered accordingly.

7. In the result, the appeal filed by the assessee dismissed.

Order pronounced on this 11th day of November, 2021.

Sd/-
(B.R.Baskaran)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 11th November, 2021.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-6, Bangalore.
4. The Pr.CIT-6, Bangalore.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore