

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A”BENCH: BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT
AND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.456/Bang/2021
Assessment Year: 2017-18

G S Management Services Pvt. Ltd. No.1091, 2 nd Floor, SRNG Sampanappa Complex OTC Road, Nagarathpet Bengaluru 560 002 PAN NO :AACCG3308G	Vs.	Deputy Commissioner of Income-tax CPC, Circle-3(1)(2) Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Shri V. Sridhar, A.R.
Respondent by	:	Shri Swaroop Mannava D.R.

Date of Hearing	:	17.11.2021
Date of Pronouncement	:	17.11.2021

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 31.8.2020 passed by the Ld. CIT(A), Bengaluru and it relates to the assessment year 2017-18.

2. The Ld. A.R. appearing for the assessee submitted that the registry has marked the appeal as “barred by limitation by 312 days”. The Ld. A.R. submitted that the assessee has received the order passed by Ld. CIT(A) on 16.9.2020 and the appeal was filed on 23.9.2021. He submitted that the intervening period is covered

Page 2 of 4

by the extension of limitation granted by Hon'ble Supreme Court. Accordingly he submitted that there was no delay in filing the present appeal.

3. We heard Ld. D.R. on this preliminary issue. Since the limitation period has been extended by various orders passed by Hon'ble Supreme Court, we find merit in the submissions made by the assessee.

4. The grounds of appeal urged by the assessee relate to non-granting of exemption of long term capital gain of Rs.23.92 lakhs claimed by the assessee. The Ld. A.R. submitted that the assessee has declared long term capital gain in this year and claimed the same as exempt. However, while filling the return of income, the above said amount was not mentioned in the "exemption schedule" and hence exemption was denied by CPC while processing the return u/s 143(1) of the Income-tax Act,1961 ['the Act' for short]. The Ld. A.R. submitted that the assessee filed written submission before Ld. CIT(A) explaining the above facts, but the Ld. CIT(A) took the view that the assessee has failed to respond to the notice issued by CPC not did it file any revised return of income. Accordingly, the Ld CIT(A) confirmed the rejection of exemption. The Ld. A.R. further submitted that the Ld. CIT(A) has not properly considered written submissions filed by the assessee. He submitted that inadvertent error committed while filling up the return of income should not be reason for rejection of claim, which the assessee is legally entitled to. Accordingly, he prayed that the assessee may be provided with an opportunity to present its case properly before Ld. CIT(A) and to comply with procedures, if any.

Page 3 of 4

5. We heard Ld. D.R. on this issue and perused the record. We notice that the Ld. CIT(A) has confirmed the rejection of exemption only on the reasoning that the assessee did not respond to the notice given by CPC about the discrepancy and nor did it file any revised return of income. In our view, if an assessee is eligible for any relief under the Income tax Act, the same cannot be denied on account of any inadvertent mistake or procedural default. Accordingly, we are not able to appreciate the reasoning given by Ld. CIT(A) in confirming the rejection of exemption. In our view, the claim of the assessee has to be examined in accordance with law. Accordingly, we are of the view that this issue requires fresh examination at the end of CIT(A). Accordingly, we set aside the order passed by Ld. CIT(A) on this issue and restore the same to the file of the A.O. for examining it afresh. The assessee should be given proper opportunity of being heard in this regard. After hearing the assessee, the Ld. CIT(A) may take appropriate decision in accordance with law.

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

Order pronounced in the open court on 17th Nov, 2021.

Sd/-
(N.V. Vasudevan)
Vice President

Sd/-
(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 17th Nov, 2021.
VG/SPS

Page 4 of 4

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.