

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'G' BENCH  
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER  
&**

**SHRI AMARJIT SINGH, JUDICIAL MEMBER**

**ITA No.1585/Mum/2020 to 1587/Mum/2020  
(Assessment Year :2007-08 to 2009-10)**

M/s. White Water Park (I) Pvt. Ltd., 319, Bussa Industrial Estate Next to Century Bazar Prabhadevi Mumbai – 400 025	Vs.	The Income Tax Officer- 5(3)(4), Mumbai Room No.565, Aayakar Bhavan, New Marine Lines Mumbai – 400 020
<b>PAN No. AAACW0865E</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	None
Revenue by	Shri Hoshang Boman Irani
<b>Date of Hearing</b>	<b>01/12/2021</b>
<b>Date of Pronouncement</b>	<b>06/12 /2021</b>

**आदेश / O R D E R**

**PER M. BALAGANESH (A.M):**

These appeals in ITA Nos.1585/Mum/2020 to 1587/Mum/2020 for A.Yrs.2007-08 to 2009-10 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-10, Mumbai in appeal No.CIT(A)-10/Mumbai/10451/2014-15, CIT(A)-10/Mumbai/10534/2016-17 & CIT(A)-10/Mumbai/10535/2016-17 dated 02/04/2019 (Id. CIT(A) in short) in the matter of imposition of penalty u/s.271(1)(c).

Identical issues are involved in all these appeals, hence, they are taken up together and disposed of by this common order for the sake of convenience.

2. At the outset, there is a delay of 79 days noted by the Registry. We find that assessee has filed a delay condonation petition explaining the fact that due to Covid-19 pandemic lockdown was imposed from 24/03/2020 and by placing reliance on the Government of India of notification No.218979 dated 31/03/2020 in Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance 2020 (No.2 of 2020) dated 31/3/2020 as per Clause 3(1)(b) extending the time limit specified in Income Tax Act which falls during the period from 20<sup>th</sup> day of March 2020 to 29<sup>th</sup> June 2020 for the purpose of filing appeal, till 30/06/2020 or such other date as the Central Government by notification specify in this behalf. Subsequently, the Government vide Notification No.35/2020 dated 24/06/2020, has extended the said time limit up to 31/03/2021. In view of the same, we are inclined to condone the delay of 79 days in filing the appeal of the assessee and admit the appeal for adjudication.

3. Though the assessee has raised several grounds of appeal before us for each of the years under consideration, one of the grounds raised by the assessee is that the Id. CIT(A) had passed an order by violating the principles of natural justice. We deem it fit to address this issue as it goes to the root of the matter.

4. None appeared on behalf of the assessee. We have heard the Id.DR and perused the materials available on record. We find that the Id. CIT(A) had passed an exparte order as there was no appearance before the Id. CIT(A). Since the issues involved are more on factual matters, the Id.

CIT(A) ought not have invoked the decision of Multiplan India Pvt. Ltd., and dismissed the appeals of the assessee for non-prosecution. We find that the Id. CIT(A) ought to have disposed of the appeals on merits. Since this is not done, we deem it fit to remand all these appeals to the file of the Id. CIT(A) for denovo adjudication in accordance with law. Needless to mention that the assessee be given reasonable opportunity of being heard. Accordingly, this ground raised by the assessee is allowed for statistical purposes for all the years under consideration.

5. Since the entire appeals are remanded back to the file of the Id. CIT(A) for violation of principles of the natural justice and for non-adjudication of the issue on merits by the Id. CIT(A), the other grounds raised by the assessee on merits need not be adjudicated herein as they become infructuous. The other grounds are also remanded back to the file of the Id. CIT(A) for denovo adjudication.

**6. In the result, all the appeals of the assessee are allowed for statistical purposes.**

Order pronounced on 06/ 12 /2021 by way of proper mentioning in the notice board.

**Sd/-**  
**(AMARJIT SINGH)**  
JUDICIAL MEMBER

**Sd/-**  
**(M.BALAGANESH)**  
ACCOUNTANT MEMBER

Mumbai; Dated 06/ 12 /2021  
KARUNA, sr.ps

**Copy of the Order forwarded to :**

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

//True Copy//

BY ORDER,

(Asstt. Registrar)  
ITAT, Mumbai