

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.673/Chny/2020
निर्धारण वर्ष/**Assessment Year: 2009-10**

M/s. Sterling Holiday Resorts Ltd.,
[Formerly known as M/s. Sterling
Holiday Resorts (India) Ltd.], Purva
Primus, 4th Floor, #236,
Okhiyampettai, Old Mahabalipuram
Road, Thoraipakkam,
Chennai 600097.

Vs. The Deputy Commissioner of
Income Tax,
Corporate Circle 6(2),
Chennai – 600 034.

[PAN: AABCT7079G]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri M. Rajan, CIT
सुनवाई की तारीख/ Date of hearing : 02.12.2021
घोषणा की तारीख /Date of Pronouncement : 02.12.2021

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the
Id. Commissioner of Income Tax (Appeals) 15, Chennai, dated 30.10.2019
relevant to the assessment year 2009-10.

2. There is a delay of 184 days in filing the appeal by the assessee. The assessee filed petition for condonation of delay in the form of an Affidavit and the contents are extracted as under:

“The Hon’ble CIT has passed the order for AY 2009-2010 vide ITA No. 164/CIT(A)-15/2015-16 dated 30.10.2019 and it was received through e-mail. However, we came to know about the order only on 05.11.2019. The reason being the mail has gone to Junk and also the Accountant who is looking the taxation has left the organization and it is not brought to the notice of the Management.

As a result, we could not able to file the appeal well before the due date. The last date for filing the appeal before the Tribunal is 03.01.2020.

In the above circumstances, the appellant humbly submits that the delay in filing (194 days) is having regard to the facts of the case, the appellant prays that the delay in filing (194 days) of the appeal may kindly be condoned and the appeal may be admitted.”

3. By reiterating the contents in the Affidavit, the Id. Counsel for the assessee has submitted that the delay in filing the appeal may be condoned and admitted for adjudication, to which; the Id. DR has not raised any serious objection. Consequently, since the assessee was prevented by sufficient cause, the delay in filing of the appeal stands condoned and admitted for adjudication.

4. When the appeal was taken up for hearing on merits, the Id. Counsel for the assessee has submitted that the Id. CIT(A) has passed an ex-parte order. It is further submitted that even though notices of hearing were issued to the assessee, the assessee could not appear due

to the circumstances beyond its control and therefore, the Id. Counsel for the assessee prayed that the ex-parte order passed by the Id. CIT(A) may be set aside and one more opportunity of being heard to the assessee may be granted to the assessee to substantiate his case before the Id. CIT(A).

5. On the other hand, the Id. DR dutifully relied on the order passed by the Id. CIT(A).

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. Even though the Id. CIT(A) has given opportunities to the assessee for hearing the appeal, the assessee has not appeared. By considering the submissions of the Id. Counsel for the assessee and also keeping in view of the principles of natural justice, we are of the considered opinion that the appeal of the assessee has to be decided on merits after hearing the assessee. In view of the above, we set aside the appellate order and remit the matter back to the file of the Id. CIT(A) to adjudicate the appeal afresh after affording reasonable opportunity of being heard to the assessee. We also direct the assessee to appear before the Id. CIT(A) without fail when the appeal is fixed for hearing.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 2nd December, 2021 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, the 02.12.2021

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.