

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B": HYDERABAD
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 2085/H/2018 Assessment Years: 2015-16		
Fima Properties Pvt. Ltd., Hyderabad PAN - AABCF 1681 Q (Appellant)	Vs.	Income-tax Officer, Ward - 17(2), Hyderabad. (Respondent)
Assessee by:		Shri Suvibha Nolkha
Revenue by:		Smt. M. Padma, Sr.DR
Date of hearing:		07/12/2021
Date of pronouncement:		09/12/2021

ORDER

PER L.P. SAHU, A.M.:

This appeal filed by the assessee is directed against CIT(A) - 5, Hyderabad's order dated 18/07/2018 for AY 2015-16 involving proceedings u/s 143(3) of the Income Tax Act, 1961 ; in short "the Act".

2. We notice at the outset that assessee's instant appeal suffers from 38 days delay in filing before the ITAT. Considering the submissions of the ld. AR that the assessee

was prevented by reasonable cause for not filing these appeals within the stipulated time, we rely on Case law Collector Land Acquisition Vs. Mst. Katiji & Ors, 1987 AIR 1353 (SC) and University of Delhi Vs. Union of India, Civil Appeal No. 9488 & 9489/2019 dated 17 December, 2019, hold that such a delay; supported by cogent reasons, deserves to be condoned so as to make way for the cause of substantial justice. We accordingly hold that assessee's impugned delay in filing this appeal is neither intentional nor deliberate but due to the circumstances beyond its control. The same stands condoned. Case is now taken up for adjudication on merits.

3. In the course of hearing, it was pointed out by the learned counsel of the assessee that the learned CIT(A) had decided the matters ex-parte. Therefore, it would be in the interest of justice, the matter may be restored to his file for deciding various grounds of appeal on merits. The ld. AR undertook to produce all the relevant documents to substantiate assessee's case before the CIT(A). The learned DR agreed with the aforesaid statement of the learned AR.

4. We have considered the facts of the case and the request made by the learned AR. The CIT(A) in his order at para 6.2, inter-alia, observed that the appellant failed to appear before him and substantiate its ground of appeal with evidences. We are of the view that interest of justice

will be served if the matter is restored to the file of first appellate authority for deciding various grounds of appeal of the assessee on merits. Accordingly, the CIT(A) is directed to afford opportunity of being heard to the assessee and thereafter decide the appeal on merits. We direct the assessee to appear before CIT(A) with all the relevant evidences; at its own risk and responsibility to be followed by three effective opportunities of hearing.

5. In the result, appeal of the assessee is treated as allowed for statistical purposes in above terms.

Pronounced in the open court on 9th December, 2021.

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

Sd/-
(L. P. SAHU)
ACCOUNTANT MEMBER

Hyderabad, Dated: 9th December, 2021.

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Copy to :

1	<i>Fima Properties Pvt. Ltd., 6-3-596/95/A, Naveen Nagar, Road No. 1, Banjara Hills, Hyderabad.</i>
2	<i>ITO, Ward - 17(2), Hyderabad</i>
3	<i>CIT(A) - 5, Hyderabad</i>
4	<i>PR. CIT - 5, Hyderabad</i>
5	<i>ITAT, DR, Hyderabad.</i>
6	<i>Guard File.</i>