

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, CHENNAI

BEFORE SHRI C.M. GARG, JM & ARUN KHODPIA, AM

आयकर अपील सं./ITA No.800/CHNY/2020

(निर्धारण वर्ष / Assessment Year :2016-2017)

M/s La Villa Hotel Private Limited, No.8, Kasthuribai Street, Nethaji Nagar, Uppalam, Pondy-605001	Vs	The ITO, Ward-1, Puducherry
PAN No. : AABCL 5793 M		

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	Shri Arjunraj, CA
राजस्व की ओर से /Revenue by	:	Shri g.Johnson, Addl. CIT

सुनवाई की तारीख / Date of Hearing	:	23/02/2022
घोषणा की तारीख/ Date of Pronouncement	:	23/02/2022

आदेश / ORDER

Per C.M.Garg, JM:

This appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals), Puducherry, dated 14.09.2020 for the assessment year 2016-2017.

2. On perusal of the appeal record, we found that the CIT(A) dismissed the appeal of the assessee on account of delay.

3. Ld. AR before us submitted that the CIT(A) without considering the explanation of the assessee with regard to delay of 150 days, has dismissed the appeal of the assessee, which is wholly unjust and legally sustainable. It was also submitted by the Id. AR of the assessee that the Managing Director of the assessee company being pre-occupied with promotion of the business and resolving RBI Matters, resulting into pursue the matter within the prescribed time before the CIT(A). Accordingly, he submitted that the delay may kindly be condoned and the CIT(A) may

kindly be directed to provide one more opportunity of hearing to the assessee for proper representation of the case before him.

4. On the other hand, Id. Sr. DR relied on the orders of authorities below and objected to condone the delay.

5. We have considered the rival contentions of both the parties and perused the relevant material available on record of the Tribunal as well as the impugned orders passed by both the lower authorities. In our opinion, mistake of the authorised person of the assessee may be taken into consideration for condoning the delay in filing the present appeal as has been held in plethora of judgments. Further, the Hon'ble Supreme Court in the case of Collector Land Acquisition Vs. Mst. Katiji & Ors., 1987 AIR 1353, has laid down that in such matters, a liberal approach is adopted as ordinarily a litigant does not stand to benefit by lodging an appeal late. It has been further laid down that substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. Looking to the facts and circumstances of the case and the judicial decision of Hon'ble Supreme Court, we condone the delay of 153 in filing appeal before the CIT(A).

6. We also found that the Id. CIT(A) has passed the impugned order ex-parte. Ld. AR before the Bench submitted that the assessee may be provided one more opportunity to substantiate its claim before the CIT(A).

Considering the facts and circumstances of the case and in the interest of justice, there will be no loss to the Revenue if one more opportunity be granted to the assessee to represent its case before the CIT(A). Accordingly, we restore the appeal of the assessee to the file of CIT(A) to pass a speaking and reasoned order considering the findings of AO and the submissions of the assessee, after providing sufficient opportunity of hearing to the assessee. The assessee is also directed to cooperate with the CIT(A) in early disposal of the case.

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

Order pronounced in the open court on 23/02/ 2022.

Sd/-
(ARUN KHODPIA)

लेखा सदस्य /ACCOUNTANT MEMBER

Chennai; दिनांक Dated 23/02/2022

Prakash Kumar Mishra, Sr.P.S.(on tour)

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **Chennai** / DR,
ITAT, Chennai
6. गार्ड फाईल / Guard file.
सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
ITAT Chennai Benches, Chennai