

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "A", HYDERABAD
(Through Virtual Hearing)

BEFORE SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND
SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

	ITA No. 488/Hyd/2020		
	A.Y. 2011-12		
DCIT, Circle-2(1), Hyderabad.	Vs.	Kridhya Infra Limited, Hyderabad. PAN: AAOCS 1904 Q	
(Appellant)		(Respondent)	
	Assessee by	None	
	Revenue by	Sri Rajendra Kumar, CIT-DR	
	Date of hearing:	17/01/2022	
	Date of pronouncement:	22/02/2022	

ORDER

PER A. MOHAN ALANKAMONY, A.M:

This appeal is filed by the Revenue against the order of the Ld. CIT(A)-2, Hyderabad in appeal No. 10150/2018-19/CIT(A)-2, dated 20/02/2020 passed U/s. 143(3) r.w.s 147 and U/s. 250(6) of the Act for the A.Y. 2011-12.

2. The Revenue has raised five grounds in its appeal and they are extracted herein below for reference:

- “1. *The Ld. CIT(A) erred on facts and in law in allowing relief of Rs. 24,78,26,578/- despite the fact that the assessee failed to prove genuineness of the sub-contract expenditure.*

2. *The Ld. CIT(A) erred in allowing relief merely on the basis of the affidavit by Managing Director of the company ignoring the evidence available on record.*
3. *The Ld. CIT(A) ought to have appreciated that the affidavit in the absence of any supporting documentary evidence, is nothing more than a self-serving document.*
4. *The Ld. CIT(A) ought to have appreciated the fact that the sub-contract expenditure was proved to be bogus after thorough investigation by the Department and the assessee failed to counter the findings of the Department.*
5. *Any other ground that may be urged during the course of appellate proceedings.”*

3. At the outset, the Ld. DR submitted that there is a delay of 120 days in filing the appeal before the Tribunal. In this regard, the Ld. DR filed condonation petition wherein it was stated that the appeal was filed beyond the prescribed time limit due to pandemic situation prevailed during the relevant period. Therefore, it was pleaded that the delay of 120 days in filing the appeal before the Tribunal may be condoned.

4. On perusal of the submissions of the Ld. DR, it appears that the reason for the delay was due to pandemic situation prevailed during the relevant period of time due to which the Revenue could not file the appeal before the Tribunal within the stipulated time. Therefore, relying on the decision of the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. MST. Katiji & Ors (167 ITR 471) (SC), in the interest of justice, We hereby condone the delay of 120 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits.

5. At the outset, the Ld. DR submitted before us that the Ld. CIT (A) had bestowed relief to the assessee without properly examining the facts of the case. The Ld. DR further submitted that huge additions are made in the hands of the assessee by the Ld.AO due to bogus payment made to subcontractors. It was therefore pleaded that the matter may be remitted back to the file of the Ld. CIT (A) for de-novo consideration. The Ld. AR failed to appear before the Bench on the date of hearing. Further, neither the assessee nor the Ld. AR submitted any written submissions to justify the stand of the assessee.

6. After hearing the Ld. DR and perusing the order of the Ld. AO as well as the Ld. CIT (A) we are of the view that the finding of the Ld. CIT (A) requires to be revisited and examined with the evidence gathered by the Ld. AO. Therefore, in the interest of justice we hereby remit the matter back to the file of the Ld. CIT(A) for de-novo consideration and if required obtain a remand report from the Ld. AO and thereafter pass appropriate order in accordance with law and merit.

7. In the result, appeal of the Revenue is allowed for statistical purposes as indicated herein above.

Pronounced in the open Court on 22nd February, 2022.

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated:22nd February, 2022.

OKK

Copy to:-

- 1) **Appellant:** Dy. Commissioner of Income Tax, Circle-2(1), R.No.514, 5th Floor, Signature Towers, Kondapur, Hyderabad.
- 2) **Respondent:** M/s. Kridhya Infra Limited, 8-2-277/B, Plot No.1304B, 4th Floor, Inwinex Towersm, Road No.2, Bajara Hills, Hyderabad.
- 3) The CIT(A)-2, Hyderabad.
- 4) The Pr. CIT-2, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File