

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, MUMBAI

BEFORE SHRI ABY T. VARKEY, JM AND SHRI S. RIFAUR RAHMAN, AM

आयकर अपील सं/ I.T.A. No.78/Mum/2022
(निर्धारण वर्ष / Assessment Years: 2017-18)

Ruchi Soya Industries Ltd Ruchi House, Royal Palms, Survey No. 169, Aarey Milk Colony, Near Mayur Nagar, Goregaon (E), Mumbai- 400065.	बनाम/ Vs.	CIT(A) Room No.605, 6 th Floor, Pratishtha Bhavan, Maharshi Karve Road, Mumbai-400020.
स्थायी लेखा सं. /जीआइआर सं. /PAN/GIR No. : AAACR2892L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Shri S. S. Nagar
Revenue by:	Shri P. R. Mane (DR)

सुनवाई की तारीख / Date of Hearing: 01/06/2022
घोषणा की तारीख /Date of Pronouncement: 14/06/2022

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-49, Mumbai dated 26.10.2021 for the assessment year 2017-18.

2. At the outset, the Ld. AR of the assessee pointed out that there was a delay of few days in filing this appeal, and from a perusal of the reasons given, it is noted that the impugned order of the Ld. CIT(A) dated 26.10.2021 was passed during the period of Covid-19 and therefore as per the direction of the Hon'ble Supreme Court, the limitation period of filing even appeal stands extended. Therefore, we are inclined to condone the delay in filing the appeal and admit this appeal for adjudication.

3. The main grievance of the assessee is against the action of Ld. CIT(A) dismissing the appeal of the assessee filed on 30.06.2020 on the ground that there was delay of 500 days and refusing to condone



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the delay, even though according to assessee there was reasonable cause for delay which has not been appreciated by the Ld. CIT(A). The Ld. AR brought to our notice that while processing the ROI filed by the assessee on 30.11.2017, the CPC had passed the order/intimation u/s 143(1)(a) of the Income Tax Act, 1961 (hereinafter “the Act”) dated 08.03.2019. But the assessee got aware of it only on 30.06.2020. We further note that the insolvency & Resolution Proceedings (CIRP) was initiated by NCLAT on 15.12.2017 and it is noted that the CIRP completion date was on 04.09.2019 and the Resolution Plan Implementation Date as per NCLAT order was dated 23.12.2019. Thereafter, the Pandemic started from March, 2020 and the Extension of Limitation period was ordered by Hon’ble Supreme Court suo-moto which we take judicial notice. Thus, the delay caused in filing of appeal before the Ld. CIT(A) and it is noted that the assessee filed the appeal before the Ld. CIT(A) on 11.08.2020 against the CPC order dated 08.03.2019. According to the assessee, if the Covid-19 Pandemic period and the delay in intimation/receipt of the order u/s 143(1)(a) of the Act is excluded, the delay caused would only be 83 days. Whereas the Ld. CIT(A) has taken all the dates between 08.03.2019 [143(1) intimation order dated] and 11.08.2020 (filing date of appeal and concluded that the more than 500 days elapsed. As noted (supra) insolvency proceedings were going on against the assessee initiated by the financial creditors before the NCLAT, and assessee was involved in the litigation before NCLAT as discussed (supra) till 23.12.2019 and thereafter, Covid-19 had set-in India and when the assessee came



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to know about the intimation u/s 143(3) of the Act passed against the assessee, it filed the appeal before Ld. CIT(A). Therefore, there was reasonable cause for the delay. Therefore, we are inclined to condone the delay which the Ld. CIT(A) has refused for admitting the appeal before him. Therefore, we set aside the impugned order of the Ld. CIT(A) and direct him to decide the appeal on merits. The assessee is directed to file supporting documents and written-submission before the Ld. CIT(A) and the Ld. CIT(A) to decide the grounds of appeal of assessee on law/merits in accordance to law.

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

Order pronounced in the open court on this 14/06/2022.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-

(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 14/06/2022.

Vijay Pal Singh, (Sr. PS)

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, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai