

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F' NEW DLEHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT
MEMBER
AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

**ITA Nos. 1580 & 1581/Del/2019
Assessment Years: 2012-13 & 2013-14**

M/s Vedika Realty Pvt. Ltd. Unit No.2, Tower No.1, The Arcade, World Trade Centre, Cuffe Parade, Maharashtra-400005 PAN:AACCV6788M (Appellant)	Versus	Income Tax Officer, Ward-26(2), Room No.193A, Central Revenue Building, I.P. Estate, New Delhi-110002 (Respondent)
--	--------	--

Appellant by : None
Respondent by : Sh. Toufel Tahir, Sr. DR

Date of hearing : 16.06.2022
Date of order : 27.06.2022

ORDER

PER N.K. CHOUDHRY, J.M.

The assessee has preferred the instant appeals under consideration against the orders dated 24.03.2017 and 14.08.2018 passed by the Ld. Commissioner of Income Tax (Appeals)-10 & 9, New Delhi (in Short Ld. Commissioner) respectively for the Assessment Years 2012-13 and 2013-14.

2. At the outset, we observe that the grounds and issues involved in the appeals under consideration are almost identical, therefore, for the sake of brevity; we are disposing of these appeals by this Composite order.

3. It appears from the daily orders (Zimini orders) that the instant appeals were posted for hearing on four occasions i.e. 28.01.2022, 29.03.2022, 15.06.2022 and 16.06.2022 and the notice of hearing dated 29.03.2022 sent to the Assessee at the address given in Form 36, returned back by the postal department with remarks "unclaimed". Thereafter the notice of hearing for 16.06.2022 was served to the Assessee at its latest address given by the Assessee in its return of income for AY 2015-16 through affixture by the Revenue Department. Then also, the Assessee did not appear before us, hence in constrained circumstances we deem it appropriate to decide these appeals as ex-parte.

4. Heard the Ld. DR who supported the impugned orders.

5. By way of ground no.1 in both the appeals, the Assessee has raised the issue that the Ld. CIT(A) erred in passing the impugned order without providing reasonable opportunity of being heard to the Assessee. Thus, the impugned order is against the principle of natural justice.

6 It clearly appears from the orders passed by the Ld. Commissioners that in the appellate proceedings, various opportunities have been given to the Assessee by sending notices through speed post and email as well, however the Assessee did not appear and therefore, the Id. Commissioners in the constrained circumstances decided the appeals as ex-parte.

7. It also appears from the record that there is a delay of 584 and 114 days in filing of the appeals No.1580/Del/2019 and 1581/Del/2019 respectively. Even the Assessee has not deposited the appeal fees in correct 'Head'.

8. It clearly appears from the order sheet dated 26.12.2019, wherein, the signature of the Assessee's representative has been endorsed by the Registry by apprising the delay in filing of the instant appeals and

not filing the appeal fee in correct head i.e. "minor head 300". The reason best known to Assessee, the Assessee neither filed any application qua condonation of delay in filling of the Appeals nor rectified the said defect.

9. It is well settled law, the mere filing of appeal is not sufficient until and unless, it is effectively pursued and prosecuted. From the record, orders passed by the authorities below specifically by the Ld. Commissioners and the facts of the case, the conduct of the Assessee apparently appears to be irresponsible and non-cooperative because the Assessee has utterly failed to substantiate the delay in filing of the instant appeals. Prima facie appears that the assessee deliberately chosen not to file/accompany the petition for condonation of delay while filing the instant appeals and even otherwise thereafter as well, in spite of knowing the objections by the Registry qua delay in filling of the appeals and non-deposit of Appeal fee in correct 'Head' failed to do the needful, therefore, in the peculiar facts and circumstance; we are constrained to dismiss the appeals of the Assessee in limine, being filed beyond the limitation period prescribed under the Act and also for not depositing the appeal fees in correct 'Head'.

11 In the result, the appeals filed by the assessee stands dismissed.

Order pronounced in the open court on 27/06/2022.

Sd/-

(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER

Shekhar,