

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1117/PUN/2019
निर्धारण वर्ष / Assessment Year : 2012-13

M/s. Acclaim Industries Limited,
84/836, Shree Siddhivinayak Society,
Mahaveer Nagar, Kandiwali (West),
Mumbai – 400067

PAN : AAACM7494B

.....अपीलार्थी / Appellant

बनाम / V/s.

Dy. Commissioner of Income Tax,
Circle – 8, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Dr. Prayag Jha
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 02-08-2022
घोषणा की तारीख / Date of Pronouncement : 02-08-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 19-03-2019 passed by the Commissioner of Income Tax (Appeals)-4, Pune [‘CIT(A)’] for assessment year 2009-10.

2. We find this appeal was filed with a delay of 648 days. To condone the said delay, the assessee filed notarized affidavit dated 15-07-2019

explaining the reasons for delay. On perusal of the same upon hearing both the parties, we find that the reasons explained by the ld. AR are bonafide which really prevented the assessee to file the appeal in time. Therefore, the delay of 648 days are condoned.

3. At the outset, the ld. AR submitted that the order passed by the ld. CIT(A) is an ex-parte order. The ld. CIT(A) went on to pass an order based on the material available on record namely, statement of facts and grounds of appeal as per Form-35 while filing the appeal before the First Appellate Authority. The ld. AR prayed that one final opportunity may be provided to the assessee so that the matter may be discussed and represented on merits before the ld. CIT(A) and therefore, it should be restored to the file of ld. CIT(A).

4. On the other hand, the ld. DR submitted that once the appeal is decided as per materials available on record, there was no need for the assessee to again go back to the ld. CIT(A).

5. We have perused the case record and heard the rival contentions and also have given thoughtful consideration to the order passed by the ld. CIT(A). We find that it is an ex-parte order where rights and liabilities of the assessee were not adjudicated upon. Since there was no appearance on record by the assessee and order of ld. CIT(A) was based only on materials available on records i.e. statement of facts, grounds of appeal filed by the assessee and the assessment order, the assessee should be given one final opportunity to defend his case through proper documentary evidences. In the interest of justice, we therefore, set aside the order of ld. CIT(A) and

restore the matter back to his file for adjudication after providing reasonable opportunity of hearing to the assessee. Thus, the impugned order is set aside. The assessee is liberty to file evidences, if any, in support of its claim. Therefore, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 02nd August, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 02nd August, 2022.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-9, Pune
4. The Pr. CIT-5, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune