

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B", HYDERABAD

BEFORE  
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA Nos. 180 & 181/Hyd/2022  
(निर्धारण वर्ष / Assessment Year: 2011-12 & 2012-13)

M/s.Exponential Technologies (Software & Hardware) Pvt. Ltd., Hyderabad [PAN No. AABCE7729C]	Vs.	Income Tax Officer, Ward-17(2), Hyderabad
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अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri P.Murali Mohan Rao, AR  
राजस्व द्वारा/Revenue by: Shri A.P.Babu, DR

सुनवाई की तारीख/Date of hearing: 01/08/2022  
घोषणा की तारीख/Pronouncement on: 01/08/2022

आदेश / ORDER

**PER K. NARASIMHA CHARY, JM:**

Aggrieved by the order(s) passed by the Learned Commissioner of  
Income Tax (Appeals)-12, Hyderabad ("Ld. CIT(A)") in the case of M/s.

Exponential Technologies (Software & Hardware) Pvt. Ltd. (“the assessee”) for the AYs. 2011-12 & 2012-13, assessee filed these appeals.

2. It could be seen from the record that there is a delay of 351 days in preferring these appeals and the reason attributed for the delay in filing the appeals to the pandemic. As a matter of fact, though the learned DR does not concede to condone the delay, there is no denial of the fact that the Hon'ble Supreme Court in the Suo Motu proceedings in the case of M.A.No. 21/2022 in M.A.No. 665/2021 in SMW(C) No.3 of 2020 by order dated 10/01/2022 held that in cases, where the limitation would have expired during the period between 15/03/2020 and 28/02/2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01/03/2022, and in the event of actual balance period of limitation remaining with effect from 01/03/2022 is greater than 90 days, that longer period shall apply. Since the date of impugned orders under these appeals is 26/03/2021, these appeals, filed on 11/05/2022 shall be treated as filed within the period of limitation. We, therefore, now shall proceed to hear the appeals.

3. At the outset, it is submitted that the Ld. CIT(A) dismissed the appeals for statistical purpose observing that the assessee opted for Vivad Se Viswas Scheme, pursuant to which Form No. 3 was issued under section 5(1) of the Direct Tax Vivad Se Viswas Act, 2020. It is submitted that due to financial constraints, the assessee could not take them to their logical conclusion and, therefore, the process under Vivad Se Viswas Scheme failed. Assessee, therefore, prays that inasmuch as the proceedings under the Vivad Se Viswas Scheme could not be taken to the logical conclusion,

it is just and proper to set aside the impugned order and to restore the appeals before Ld. CIT(A) for disposal on merits.

4. Though the learned DR vehemently oppose the prayer made on behalf of the assessee, but he fairly submitted that the appeals were not decided on merits and were dismissed in limine in view of the fact that the assessee opted for Vivad Se Viswas Scheme.

5. In so far as the assessee not paying the amount requisite under the Vivad Se Viswas Scheme is concerned, absolutely there is no dispute. There is nothing on record to show that the assessee stands to gain by not getting the matter settled under the Vivad Se Viswas Scheme. Even otherwise also, the record speaks that the assessee appeals were dismissed as deemed to have been withdrawn, in view of the fact that the settlement was sought in tune with Form No.3, but the fact remains that such settlement could not be finalised by the department as on such date.

6. It is a fact that the matter is not decided on merits and no reference has been made to any of the contention of the parties. No adjudication took place in this matter. Only on the assumption that the appeals would be withdrawn on the proceedings under Vivad Se Viswas Scheme reaching their logical conclusion, the appeals were dismissed in a summary manner. In these circumstances, while allowing these appeals for statistical purpose, we set aside the impugned orders and restore the appeals to file, to be disposed of on merits, after affording an opportunity to the assessee.

7. In the result, both the appeals are treated as allowed for statistical purposes, restoring the appeals to the file of Ld. CIT(A) for disposal on merits.

Order pronounced in the open court on this the 1<sup>st</sup> day of August, 2022.

Sd/-  
**(RAMA KANTA PANDA)**  
**ACCOUNTANT MEMBER**

Hyderabad,  
Dated: 01/08/2022

TNMM

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Copy forwarded to:

1. M/s.Exponential Technologies (Software & Hardware) Pvt. Ltd.,  
C/o. P.Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda,  
Hyderabad.
2. Income Tax Officer, Ward-17(2), Hyderabad.
3. The CIT(Appeals)-12, Hyderabad.
4. The Pr.CIT-2, Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

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ITAT, HYDERABAD