

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

SHRI M. BALAGANESH, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 2055/MUM/2021
(ASSESSMENT YEAR: 2018-19)

M/s The Bombay Presidency -
Radio Club Ltd.,
157, Arthur Bunder Road, Colaba,
Mumbai - 400005
[PAN:AAACT4948F]

..... Appellant

The Assistant Director of Income Tax-
CPC, Bengaluru

Vs
..... Respondent

Appearances

For the Appellant/Assessee : Shri Hari S. Raheja
For the Respondent/Department : Shri B.K. Bagchi

Date of conclusion of hearing : 15.06.2022
Date of pronouncement of order : 08.09.2022

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Appellant/Assessee has challenged the order, dated 16.09.2021 passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeals Centre, Delhi [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2018-19, whereby the CIT(A) had dismissed the appeal filed by the Appellant/Assessee against the intimation/ order dated 23.03.2020 passed under Section 143(1) of the Act [hereinafter referred to as 'the Act'].
2. When the appeal was taken for hearing the Ld. Authorised Representative for the Appellant, at the outset, submitted that the CIT(A) has dismissed the appeal in limine on the ground of delay in

filing the appeal without appreciating that on account of Covid-19 Pandemic the time limit for filing appeal before CIT(A) stood extended by the provisions of Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and by the various orders passed by the Hon'ble Supreme Court. Therefore, he submitted that the appeal be restored to the file of CIT(A) for adjudication on merits.

3. We note that intimation under Section 143(1) of the Act was issued on 23.03.2020. As per Circular No. 10 of 2021, dated 25.05.2021 issued by Central Board of Direct Taxes (CBDT) the limitation for filing appeal before CIT(A) was relaxed by the CBDT and by the Hon'ble Supreme Court and the taxpayer was entitled to relaxation more beneficial to him. The aforesaid Circular No. 10 of 2021 reads as under:

"1. The Central Board of Direct Taxes has issued Circular No. 8 of 2021 on 30th April 2021 providing various relaxations till 31st May 2021 including extending time for filing the appeals before CIT(Appeals). At the same time, the Hon'ble Supreme Court vide order dated 27th April 2021 in Suo motu Writ Petition (Civil) No. 3 of 2020 restored the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 directed that the period(s) of limitation, as prescribed under any General or Special Laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.

2. The Central Board of Direct Taxes, clarifies that if different relaxations are available to the taxpayers for a particular compliance, the taxpayer is entitled to the relaxation which is more beneficial to him. Thus, for the purpose of counting the period(s) of limitation for filing of appeals before the CIT(Appeals) under the Act, the taxpayer is entitled to a relaxation which is more beneficial to him and hence the said limitation stands extended till further orders as ordered by the Hon'ble Supreme Court in Suo motu Writ Petition

(Civil) No. 3 of 2020 vide order dated 27th April 2021.” (Emphasis Supplied)

4. Vide order dated 10.01.2022, passed by the Hon’ble Supreme Court in M.A. No. 21 of 2022 in SuoMotu Writ Petition (C) No. 3 of 2020, the Hon’ble Supreme Court has directed that period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under general or special law. Further, where limitation would have expired during the period between 15.03.2020 till 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. We note that appeal before CIT(A) in the present case has been filed on 23.11.2020 which falls within the extended time specified by the Hon’ble Supreme Court, and therefore, in view of the aforesaid, the appeal filed before the CIT(A) is being treated as having been filed within limitation. Therefore, the question of delay in filing the appeal before CIT(A) does not arise. Accordingly, the appeal is restored to the file of CIT(A) for adjudication on merits as per law.
5. In the result, the present appeal filed by the Appellant/Assessee is allowed for statistical purposes.

Order pronounced on 08.09.2022.

Sd/-

(M. Balaganesh)
Accountant Member

Sd/-

(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 08.09.2022
Alindra, 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