

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, MUMBAI
BEFORE SHRI BASKARAN BR, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
ITA No. 1801/Mum/2022
(A.Y: 2014-15)

Antonio Whitney Munroe,4 th Floor, Thomson Reuters, PiramalTowers,Corporate Park,G.K.Marg, Lower parel, West, Mumbai-400013	Vs.	ACIT-Circle 35(1), Mumbai -400020.
PAN/GIR No. BAHPM5057R		
Appellant	..	Respondent

Appellant by :	Mr.K.K.Vaid,&Mr.A.K.Jawadwala.AR
Respondent by :	Mr.Mr.Manoj Sinha.DR

Date of Hearing	13.09.2022
Date of Pronouncement	15.09.2022

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the CIT(A)-46 Mumbai passed u/s 144 and 250 of the Act. The assessee has raised the grounds of appeal that the CIT(A) has erred in passing an ex-parte order confirming the validity of the Assessement order and the CIT(A) also has erred in Non granting of TDS credit & Foreign Tax Paid credit.

2. At the time of hearing, the Ld.AR has submitted that the assessee is a resident of China and has filed an affidavit for condonation of delay of 48 days in filing the appeal before the Hon'ble Tribunal and explained that due to Covid-19 pandemic, the filling was delayed and relied on the decision of Hon'ble Supreme Court in respect of extension of period of limitation. We find the registry has issued defect notice to the assessee mentioning the delay of 806 days in filling the appeal. On application of the ratio of decision of the Honble Supreme court in respect of extension of limitation period, the delay is restricted to 48 days and the Ld.DR has no specific objections. Further we are satisfied with the reasonable cause explained for delay in filling the appeal and accordingly we condone the delay and admit the appeal.

3. The Brief facts of the case are that, the assessee is a foreign national and employee of Thomson Reuters Hong Kong and was on assignment to India from year 2009 to 2014. The assessee derives income from salary, income from House Property, Capital Gains and other sources. The assessee has filed the return of income for A.Y.2014-15 disclosing a total income of

Rs.2,83,98,915/-Subsequently,the case was selected for limited scrutiny and the assessing officer has issued notice U/sec143(2) and 142(1) of the Act. Finally the Assessement was completed U/sec144 of the Act on 27-12-2016 determining the total income of Rs.2,83,98,920/- and credit for Foreign Tax paid was not granted.

4. Aggrieved by the order, the assessee has filed an appeal before the CIT(A),whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

5. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer. The assessee has a good case on merits and shall substantiate with the material evidence and prayed for an opportunity to explain

before the lower authorities. Contra, the Ld. DR supported the order of the CIT(A).

6. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. We find the Ld.CIT(A) has issued the notices of hearing referred at page 2 of the order, but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. We find that the assessee has raised grounds of appeal challenging the validity of Assessement and non granting of TDS credit & Foreign Taxes Paid credit overlooking the DTAA with U.S.A and there could be various reasons for non appearance which cannot be overruled. We considering the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate

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the case before the Assessing Officer along with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the Assessing Officer to adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information and allow the grounds of appeal of the assessee for statistical purposes.

7. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 15.09.2022

Sd/-

(BASKARAN BR)
ACCOUNTANT MEMBER
Mumbai, Dated 15.09.2022
M PS

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. Concerned CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

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आदेशानुसार/ BY ORDER,

(Asst. Registrar)
ITAT, Mumbai