

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"G" BENCH, MUMBAI**

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER AND**  
**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.1531/Mum./2022**  
**(Assessment Year : 2012-13)**

SNB Infrastructure Pvt. Ltd.  
Mohd. Hussain Compound  
Nr. Maharashtra Weigh Bridge  
LBS Marg, Kurla, Mumbai 400 070  
PAN – AAMCS0182N

..... Appellant

v/s

Dy. Commissioner of Income Tax  
Circle-14(3)(2), Mumbai

.....Respondent

Assessee by : None  
Revenue by : Smt. Mahita Nair

Date of Hearing – 30/08/2022

Date of Order – 20/10/2022

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 30/10/2021 passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2012-13, which in turn, arose from the order passed by the Assessing Officer under section 143(3) of the Act.

2. When this appeal was called for hearing, neither anyone appeared on behalf of the assessee nor was any application seeking adjournment filed.

Therefore, we proceed to dispose off this appeal ex-parte, qua the assessee after hearing the learned Departmental Representative ("*learned DR*") and on the basis of material available on record.

3. The present appeal filed before us is delayed by 148 days. In this appeal, the impugned order dated 30/10/2021 was received by the assessee on 07/11/2021. Thus, as per the provisions of section 253(3) of the Act, the Revenue was required to file the appeal within 60 days from the receipt of the order. However, the assessee filed the appeal, for the year under consideration, on 03/06/2022. We find that the Hon'ble Supreme Court, vide order dated 10/01/2022, passed in M.A. no.21 of 2022, in M.A. no.665 of 2021, in Suo-Motu Writ Petition (Civil) no.3 of 2020, directed that the period from 15/03/2020 till 28/02/2022, shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial and quasi judicial proceedings. As part of the limitation period for filing the present appeal was falling within the aforesaid time-period, in view of the order passed by the Hon'ble Supreme Court, the same shall be excluded till 28/02/2022. However, even after exclusion of aforesaid time period and computation of limitation period thereafter, the appeal is still delayed by almost 38 days. In the application seeking condonation of delay, filed along with the appeal, assessee submitted that the directors of the company were medically affected during the COVID pandemic and hence were unable to attend to the matters of Income Tax appeal and other commercial matters. Accordingly, assessee prayed for condonation of delay in filing this appeal.

4. During the course of hearing, learned DR did not raise serious objections against the prayer for condonation of delay. In view of the above, we are of the considered view that there was sufficient cause which prevented the assessee from filing this appeal within the limitation period. Accordingly, we condone the delay in filing this appeal and proceed to hear the same on merits.

5. The brief facts of the case, as emanating from the record, are: The assessee is engaged in the business of infrastructure development, construction activity of the building, roads and other civil work. For the year under consideration, assessee e-filed its return of income on 27/09/2012 declaring total income at Rs. 4,42,19,890. The Assessing Officer vide order passed under section 143 (3) of the Act assessed the total income of the assessee at Rs. 6,49,54,600, after making addition on account of exempt income from AOP and depreciation claimed on goodwill and commercial rights and registration.

6. In appeal before the learned CIT(A), despite various notices being issued, neither any reply/submission was filed on behalf of the assessee nor assessee responded to any of the notices. Accordingly, vide *ex parte* impugned order dated 30/10/2021, learned CIT(A) dismissed the appeal filed by the assessee and upheld the addition made by the Assessing Officer. Being aggrieved, the assessee is in appeal before us.

7. During the course of hearing, learned DR vehemently relied upon the orders passed by the lower authorities.

8. Having considered the submissions of learned DR and perused the material available on record, we find that the learned CIT(A) dismissed the appeal filed by the assessee and upheld the addition made by the AO without assigning any reasons in support of its conclusion and without dealing with any of the grounds raised by the assessee. We further find that the learned CIT(A) has not even discussed merits of the case vis-à-vis the additions made by the Assessing Officer. Accordingly, in view of the above, we deem it appropriate to set aside the impugned order and restore the appeal to file of learned CIT(A) for *de novo* adjudication on merits. Needless to mention that no order shall be passed without affording reasonable opportunity of being heard to both the parties. As a result, grounds raised by the assessee are allowed for statistical purpose.

9. In the result, appeal by the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 20/10/2022

**Sd/-**  
**PRASHANT MAHARISHI**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 20/10/2022**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury  
Sr. Private Secretary

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai