

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH  
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.1388/Mum/2021  
(Assessment Year :2016-17)**

M/s. Privilege Power & Infrastructure Pvt. Ltd., 3 <sup>rd</sup> Floor, HDIL Tower Anand Kanekar Marg Bandra East Mumbai – 400 051	Vs.	Dy.Commissioner of Income Tax Central Circle 5(4) Room No.1927, 19 <sup>th</sup> Floor Air India Building Nariman Point Mumbai- 400 021
<b>PAN/GIR No.AACD2140D</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	None
Revenue by	Shri Pratap Sharma
<b>Date of Hearing</b>	<b>27/10/2022</b>
<b>Date of Pronouncement</b>	<b>27/10/2022</b>

**आदेश / O R D E R**

**PER M. BALAGANESH (A.M):**

This appeal in ITA No.1388/Mum/2021 for A.Y.2016-17 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-53, Mumbai in appeal No.CIT(A)-53/DCCC-5(4)/IT-553/2018-19 dated 02/08/2019 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 30/12/2018 by the Id. Asst. Commissioner of Income Tax, Central Circle 5(4), Mumbai (hereinafter referred to as Id. AO).

2. At the outset, I find that there is a delay in filing of appeal before me by assessee by 633 days. Defect memo has been duly issued by this Tribunal to the assessee on 09/08/2021 and 30/12/2021. The assessee has filed the Xerox copy of the affidavit on 06/08/2021 in non-judicial stamp paper wherein it has been stated that delay had been caused due to serious financial crisis and non-availability of funds for making payment of appeal filing fees. I find that the order of the Id. CIT(A) was received by the assessee on 13/09/2019. The due date of filing of the appeal before this Tribunal expired on 12/11/2019. The National Lockdown due to Covid-19 pandemic was announced by the Government of India only from 24/03/2020. From 24/03/2020 till 31/03/2021, the assessee would be getting immunity in view of the relaxation provided by the Hon'ble Supreme Court due to Covid 19 pandemic. However, I find that assessee had not explained the delay from 12/11/2019 to 23/03/2020. The reason adduced by the assessee as to non-availability of funds for making payment of appeal filing fees, in my considered opinion, does not constitute reasonable cause. When this appeal was listed for hearing on various occasions, the Chartered Accountant of the assessee had filed an adjournment letter on 16/4/2022, 04/06/2022 and 30/08/2022 on the ground that promoter Director Mr. Sarang R Wadhawan is in judicial custody and hence, the Chartered Accountant is not able to obtain information from the assessee company. Even the affidavit dated 06/08/2021 filed before me is only the Xerox copy wherein the date of affidavit has been tampered by using whitener. The original affidavit has not been filed by the assessee before me. This leads to greater suspicion about the veracity of the affidavit per se. In any case, as stated earlier, the reason adduced by the assessee for the delay, in my considered opinion, does not amount to reasonable cause. I find atleast the defect could have been properly rectified by the assessee even though one of

the promoter Director is in judicial custody by clearly explaining the reasons for the delay. This only shows the cavalier attitude of the assessee company. I hold that the assessee has not properly explained the reason for filing of the appeal belatedly and hence, the appeal of the assessee to be dismissed as not admitted.

**3. In the result, appeal of the assessee is dismissed as not admitted.**

Order pronounced in open Court on 27/10/2022.

**Sd/-**  
**(M.BALAGANESH)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 27/10/2022  
KARUNA, *sr.ps*

**Copy of the Order forwarded to :**

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

//True Copy//

BY ORDER,

(Sr. Private Secretary / Asstt. Registrar)  
ITAT, Mumbai