

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

BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER

**ITA No.526/Mum/2022
(Assessment Year :2012-13)**

M/s. Group Housing Development Corporation Pvt. Ltd., C/o. Nimesh Thar & Co., Chartered Accountants B/501, Meena Apartments Station Road, Near Railway Phatak Malad (W) Mumbai – 400 051	Vs.	Dy. Commissioner of Income Tax Central Circle 5(4) Room No.1927, 19 th Floor Air India Building Nariman Point Mumbai – 400 021
PAN/GIR No.AAACG9011G		
(Appellant)	..	(Respondent)

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

आदेश / ORDER

PER M. BALAGANESH (A.M):

This appeal in ITA No.526/Mum/2022 for A.Y.2012-13 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-53, Mumbai in appeal No.CIT(A)-53/IT-555/DCCC-5(4)/2018-19, Mumbai dated 29/08/2019 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 19/12/2018 by the Id. DCIT, Central Circle 5(4), Mumbai (hereinafter referred to as Id. AO).

2. At the outset, we find that there is a delay in filing of appeal before us by the assessee by 862 days. Defect memo pointing out the same has been duly issued by this Tribunal to the assessee. The assessee has filed an affidavit on 23/03/2022 signed by Shri Lakhminder Dayal Singh, Managing Director of M/s. Awas Developers and Constructions Pvt. Ltd., shareholder of M/s. Group Housing Development Corporation Pvt. Ltd., (assessee herein). Effectively, the affidavit has been filed only by the shareholder of the assessee company instead of the Managing Director or the Director of the assessee company. But I find from Form No.36 filed by the assessee, the same has been signed by Shri Lakhminder Dayal Singh in the capacity of Managing Director of the assessee company. The status of Shri Lakhminder Dayal Singh differs in Form No.36 with that of an affidavit explaining the delay. I hold that only the directors of the assessee company could make any affirmation on behalf of the assessee company. Hence, I hold that the affidavit has not been filed by the authorised person of the assessee company. Accordingly, the defect memo for explaining the delay has not been rectified by the assessee. Moreover, even in the affidavit it has been mentioned that all the Directors of the assessee company had resigned. Thereafter, how Shri Lakhminder Dayal Singh has been authorised to represent the assessee company by the other surviving shareholders of the assessee company has not been brought on record. Hence, even on this count, the affidavit filed by Shri Lakhminder Dayal Singh suffers from serious infirmity. Hence, I hold that the delay in filing of appeal has not been explained at all by the assessee. Accordingly, the appeal of the assessee deserves 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