

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.216/PUN/2022
निर्धारण वर्ष / Assessment Year : 2011-12

Full Moon Private Limited, 601, Orbit Plaza, New Prabhadevi Road, Prabhadevi, Mumbai – 400025. PAN: AABCF 1450 D	V s	The DCIT, Central Circle- 1(1), Pune.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Suhas Bora – AR
Revenue by	Shri M.G.Jasnani – DR
Date of hearing	19/12/2022
Date of pronouncement	22/12/2022

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This appeal filed by the Assessee is directed against the order of ld.Commissioner of Income Tax(Appeals), Pune-11 dated 14.02.2022 emanating from penalty order of DCIT, Central Circle-1(1), Pune dated 27.03.2017 under section 271(1)(c) of the I.T.Act, 1961 for the A.Y.2011-12. The Assessee has raised the following grounds of appeal:

“1. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in holding the delay in filing the appeal cannot be condoned without appreciating the contention of the appellant that the Penalty Order of the AO is received by the appellant on 03.07.2017.

2. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in not appreciating the contention of the

appellant raised without prejudice and it refused to condone the delay in filing the appeal without considering that the documentary evidences submitted by the appellant which proves that there was sufficient cause for delay in filing an appeal.

3. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in not deciding the issue on merits and accordingly confirmed the levy of penalty only the technical grounds.

4. The learned CIT(A) erred in not considering the following important fact

a. That delay in filing appeal before CIT (A) was not deliberate.

b. That there was sufficient cause behind delay in filing an appeal before CIT(A)

c. The appellant has submitted a detailed reason along with the affidavit of the person who has explained the reasons for the delay.

5. The appellant prays that the delay be condoned and the order passed by the CIT(A) be sent back to decide the issue on merits.

6. The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”

2. In this case, the ld.Authorised Representative(ld.AR) of the assessee submitted that the ld.CIT(A) has not condoned the delay, though there has been reasonable cause for delay. There was a delay of around 81 days. The ld.AR had submitted before the ld.CIT(A) that their Mumbai Office was not operational. The order was served at Mumbai Office by post, therefore, there is a delay.

3. The ld.Departmental Representative(ld.DR) for the Revenue relied on the order of the ld.CIT(A) and Assessing Officer(AO).

4. We have heard both the parties and perused the records. There is a delay of 81 days. However, there is a reasonable cause for delay which was explained before the Id.CIT(A) and he has reproduced it in his order. Substantial justice is more important, therefore, we set-aside the order to Id.CIT(A) with a direction to decide the case denovo after giving opportunity of being heard to the assessee. Accordingly, grounds raised by the assessee are allowed for statistical purpose.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 22nd December, 2022.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 22nd December, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.