

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA BENCH "C", KOLKATA**

**BEFORE SHRI RAJPAL YADAV, VICE-PRESIDENT
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.2089/Kol/2019
Assessment Year: 2015-16**

Radu Real Estate & Construction Pvt. Ltd. 14, Netaji Subhas Road, 3 rd Floor, Kolkata-700001. PAN: AACCR 8250 Q (Appellant)	Vs.	ITO, Ward-35(2), Kolkata (Respondent)
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Present for:

Appellant by : None
Respondent by : Shri Amal Kamat, CIT/DR

Date of Hearing : 03.01.2023
Date of Pronouncement : 09.01.2023

ORDER

PER RAJPAL YADAV, VICE-PRESIDENT:

The assessee is in appeal before the Tribunal against the order of ld. CIT(A) dated 03.07.2019 passed for A.Y. 2015-16. The solitary grievance of the assessee is that ld. CIT(A) has erred in not condoning the delay in filing the appeal before him and thereby confirming the addition of Rs. 16,10,001/- which was added by the Assessing Officer with the aid of section 14A of the Income-tax Act, 1961 (for short 'the Act')

2. In response to the notice of hearing, no one has come present on behalf of the assessee. With the assistance of ld. DR, we have gone through the record carefully.

3. The brief facts of the case are that assessee has filed its return of income electronically on 17.12.2015 declaring total income of Rs. 47,40,080/-. The case of the assessee was selected for scrutiny assessment and a notice u/s 143(2) was issued and served upon the assessee. In response to the questionnaire issued u/s 142(1) neither assessee appeared nor submitted any detail. In other words, the Assessing Officer has passed an ex-parte assessment order according to his best judgement u/s 144 of the Income-tax Act.

4. Dissatisfied with the assessment order dated 20th November, 2017, assessee filed an appeal before the ld. CIT(A) on 15th May, 2018. According to the finding of ld. CIT(A), the assessment order was served upon the assessee on 24.11.2017. The appeal was filed on 15th May, 2018, thus it was time barred by more than 5 months. The assessee had filed an application for condonation of delay and in the application the assessee has submitted that the Directors of the Company are based in Jaipur and the other Director is an old and non-finance man, therefore, the taxation matters remained unattended due to error of judgement by the subordinate staff. This application did not meet the approval of the First Appellate Authority hence appeal has been dismissed being time barred.

5. Before us, neither anyone appeared, nor any paper book has been filed. The assessee even did not file copy of the application for condonation of delay filed before the ld. CIT(A). It has not filed any affidavit or any supporting material in support of his contention for condonation of delay. We are at a loss to appreciate all the facts which have prohibited the assessee from filing the appeal in time before the First Appellate Authority. Therefore, we do not have any hesitation in

concurring with the ld. CIT(A). Accordingly, this appeal of the assessee is dismissed.

6. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 09.01.2023.

**Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER**

**Sd/-
(RAJPAL YADAV)
VICE-PRESIDENT**

Kolkata, Dated: 09.01.2023.
Biswajit, Sr. P.S.

Copy to:

1. The Appellant: Radu Real Estates & Construction Pvt. Ltd.
2. The Respondent: ITO, Ward-35(2), Kolkata.
3. The CIT, Concerned, Kolkata
4. The CIT (A) Concerned, Kolkata
5. The DR Concerned Bench

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata