

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BENGALURU “B” BENCH, BENGALURU**

**Before Smt. Beena Pillai, Judicial Member  
and  
Shri Laxmi Prasad Sahu, Accountant Member**

<b>ITA No. 1081/Bang/2022</b> (Assessment Year: 2014-15)		
M/s. World Resorts Ltd. 31-32, Nagarur Village Off Tumkar Road, Dasnpura, Hobli 560123 PAN – AAACW1584E	vs	The Income Tax Officer 4(1)(4) Bengaluru
(Appellant)		(Respondent)

Assessee by:	Shri Rajeev Khandelwal, CA
Revenue by:	Shri Gudimella VP Pavan Kumar, CIT

Date of hearing:	02/01/2023
Date of pronouncement:	12/01/2023

**ORDER**

**Per: L.P. Sahu, A.M.**

This is an appeal filed by the assessee against the order of the learned CIT(A), NFAC, Delhi dated 18.07.2022 for AY 2014-15.

2. The assessee has raised the following grounds of appeal: =

*“1. The Commissioner of Income-tax (Appeals) at the National Faceless Appeal Centre (hereinafter referred to as the CIT(A)) erred in framing an ex-parte order.*

*The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have framed an ex parte order.*

*2. The CIT(A) erred in not deciding the following ground of appeal on merits —*

*“The order passed by the assessing officer disallowing interest of Rs. 17,13,837 on the loan of Rs. 1,60,00,000*

*added in assessment year 2012-13, while in fact no interest has been paid in the previous year relating to the assessment year 2014-15 as the loan has been repaid on 01.04.2013 "*

3. At the outset the learned A.R. submitted that there is a delay of 68 days in filing the present appeal before the Tribunal. He submitted that application for condonation of delay has been filed on 23.11.2022 along with affidavit of the assessee. The learned A.R. submitted that the NFAC, Delhi passed the impugned order on 18.07.2022 and was uploaded on the portal which was not in the knowledge of the assessee and no intimation was received from the Department by way of issuing a hard copy. It was subsequently that the Authorised Representative of the assessee, who verified the portal on 18.11.2022 that it came to their notice of order having already uploaded on the portal.

4. The learned A.R. submitted that immediately necessary steps were taken to file the present appeal before the Tribunal thereby causing a delay of 68 day. The learned A.R. submitted that the delay has been absolutely unintentional and no malafide can be attributed to the assessee. Referring to the decision of the Hon'ble Supreme Court in the case of Chamanlal Bros. Vs. The Punjab State reported in 12 SCT 643 and Sandhya Rani Sarkar Vs. Sudha Rani Debi reported in AIR SC 537 the learned A.R. submitted that the Hon'ble Supreme Court has held that the word "sufficient cause" should be liberally construed in order to advance substantial justice. He thus prayed for the delay to be condoned.

5. The learned D.R. though objected for the condonation but could not establish any malafide on behalf of the assessee in causing the delay for filing the present appeal.

6. We have heard the rival contentions and perused the material on record. In our view considering the reasons given by the assessee as well as the learned A.R. there is reasonable and the delay in filing the present appeal is unintentional. Respectfully following the ratios laid down by the Hon'ble higher courts in various decisions we are of the belief that substantial justice must be preferred before the technicalities. We accordingly condone the delay of 68 days in filing the present appeal before this Tribunal.

7. On merits of the case it is submitted that though there has been five notices issued by the learned CIT(A) to the e-mail of the assessee it went unnoticed and therefore the assessee was absolutely unaware of the present order being passed. The learned A.R. submitted that the appeal may be remitted to the learned CIT(A) in the interest of justice. To this submission the learned D.R. did not raise any objection. Considering the submissions of the learned A.R. we are of the view that this appeal deserves to be remitted to the learned CIT(A) to be considered afresh. The learned CIT(A) is directed to pass a reasoned order on merits of the issues having regard to the details/evidences/ documents filed by the assessee. Needless to say that proper opportunity of being heard must be granted to the assessee. Accordingly the grounds raised by the assessee stand allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Dictated and pronounced in the open Court on 12<sup>th</sup> January, 2023.

Sd/-  
**(Smt. Beena Pillai)**  
**Judicial Member**

Sd/-  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

Bengaluru, Dated: 12<sup>th</sup> January, 2023

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -NFAC, Delhi*
4. *The CIT -*
5. *The DR, ITAT, Bengaluru*
6. *Guard File*

*By Order*

//True Copy//

*Assistant Registrar*  
*ITAT, Bengaluru*

n.p.