

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BENCH : COCHIN**

**BEFORE SHRI GEORGE GEORGE K., JUDICIAL MEMBER  
AND  
Ms. PADMAVATHY S., ACCOUNTANT MEMBER**

ITA No.878/Coch/2022
Assessment Year : 2012-13

Royal Indian Holdings Limited, 2 <sup>nd</sup> Floor, Chandrika Buildings, M G Road, Cochin – 682 011. Kerala. <b>PAN : AABCR 1079C</b>	Vs.	The Income Tax Officer, Corporate Ward 2(2), Kochi.
APPELLANT		RESPONDENT

Assessee by	:	Shri K.P. Paulson, CA
Revenue by	:	Smt. J M Jamuna Devi, Sr. AR

Date of hearing	:	02.03.2023
Date of Pronouncement	:	08.03.2023

**ORDER**

*Per Padmavathy S, Accountant Member:*

This appeal is against the order of CIT(A), NFAC dated 29.6.2022 for AY 2012-13.

2. The only issue contended by the assessee through various grounds is the rejection of appeal by the CIT(A) without condoning the delay of 155 days in filing the appeal before the CIT(A).

3. The assessee is a limited company engaged in the business of travel agent and tour operators. The assessee filed return of income for

AY 2012-13 on 13.9.2012 declaring an income of Rs.24,15,380. The case was selected for scrutiny under CASS and statutory notices were duly served on the assessee. The assessment was completed u/s. 143(3) where the AO made disallowance of Rs.12,93,006 u/s. 14A of the Act.

4. The assessee filed an appeal before the CIT(A) with a delay of about 155 days. The assessee submitted before the CIT(A) requesting for condonation of delay as under:-

““Considering the particularity of the business both the directors of the company was on Tour for weeks for all most all months till the month of January 2016. And also one director is fully suffering from polyarticular gout and was under continuous treatment/bed rest. Doctors certificate enclosed. Again in the month of September & October our office was under fully repair and under maintenance work. And during these months there was administrative difficulties for the executions of various office work in time. We have filed an application u/s 154 of the Income Tax Act before the Learned Assessing Officer explaining the points /reasons noted above and the application was rejected stating that there is no mistakes apparent from records.

Your Appellant further submit that the delay in filing was not wilful but due to the Circumstances beyond the Control of your Appellant Your Appellant was always Co-operative with the department in all matters.

Considering the facts/details submitted above, you Appellant pray to Condone the delay in filing the Appeal petition.”

5. However, the CIT(A) did not condone the delay and dismissed the appeal by holding that-

“5.7 In the present case, the explanation advanced for the unusual delay in filing appeal is not backed by any evidence and hence not convincing. The law assists those who are vigilant, not those who sleep over their rights. This principle is embodied in the dictum: *vigilantibus non dormientibus jura subveniunt*. The delay cannot be condoned simply because the appellant's case is hard and calls for sympathy or merely out of benevolence to the party seeking relief. It is true that an order condoning the delay in filing the appeal is a discretionary one but it is also pertinent to note that if discretion is exercised on the wrong principles by giving undue liberal approach which is not at all justice oriented, then the purpose of these provisions would be defeated and frustrated. Thus, the delay is nothing but negligence and inaction of the appellant which could have been very well avoided by the exercise of due care and attention. There exists no sufficient or good reason for condoning inordinate delay in filing the present appeals. So, there is no basis for condoning such delay in this case. Hence the delay cannot be condoned.”

6. Before us, the ld AR reiterated the submissions made before the CIT(A) and prayed for a direction to condone the delay and admission of appeal by the CIT(A).

7. We heard the parties and perused the material on record. The assessee has quoted medical reasons and also administrative difficulties as reason for delay in filing the appeal before the CIT(A). However, the CIT(A) dismissed the same for the reason that no Doctor's certificate or any other document was filed before him to substantiate the claim. In our view, the assessee has filed an affidavit stating the various reasons for delay in filing the appeal which needs to be considered. Accordingly, we direct the CIT(A) to admit the appeal

and adjudicate the issues on merits after giving reasonable opportunity of being heard to the assessee. It is ordered accordingly.

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

Pronounced in the open court on this 8<sup>th</sup> day of March, 2023.

Sd/-

( GEORGE GEORGE K )  
JUDICIAL MEMBER

Sd/-

( PADMAVATHY S )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 8<sup>th</sup> March, 2023.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar,  
ITAT, Bangalore/Cochin.