

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “B” DELHI
BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.626/DEL/2022
Assessment Year 2014-15

Crystal Crop Protection Limited B-95, Wazirpur Industrial Area New Delhi	Vs.	Deputy Commissioner of Income Tax Circle-4(2)/6(2) New Delhi
TAN/PAN: AABCJ3574E (Appellant)		(Respondent)

Appellant by:	Shri S.S. Nagar, CA Shri Gaurav Sachdeva, CA.		
Respondent by:	Shri Sanjay Kumar Yadav, Sr.DR		
Date of hearing:	08	05	2023
Date of pronouncement:	08	05	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-II, New Delhi (‘CIT(A)’ in short) dated 19.03.2018 arising from the assessment order dated 28.12.2016 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2014-15.

2. The grounds of appeal raised by the assessee read as under:

“1.0 That on the facts and circumstances of the case, the CIT(A) has passed the order as per the provision of the Act and hence the appeal filed by the appellant is not maintainable.

2.0 Additional Ground No.1

On the facts and circumstances of the case, the expenditure incurred by the respondent in relation to issue of Bonus Shares

should be allowed u/s 37 of the Act in computing tax liability under the provision of the income tax Act.

3.0 Additional Ground No. 2

On the facts and circumstances of the case, the respondent wishes to lodge claim for deduction of Education Cess on income tax in computing tax liability under the provision of the income tax Act.

4.0 That in view of the judgment of Hon'ble Ahmedabad ITAT in the case of DCIT vs. M/s. Jindal Worldwide Limited (ITA 1843/Ahd/2016) and other judicial pronouncements, the respondent is entitled to raise the above additional grounds of appeal before ITAT, since ITAT has jurisdiction to consider new and/or additional claims/ deductions subsequently which was not claimed in return of income &/or before the ld. AO &/or before the Hon'ble CIT(A).”

3. When the matter was called for hearing, it was *inter alia* observed that the first appellate order was served on the assessee on 19.03.2018. It is also seen that the assessee has filed captioned appeal on 11.04.2022. Thus, there is a delay of about four years in filing the appeal. No justification has been given for such woefully belated filing of appeal. The matter was confronted to the assessee in the course of hearing. No justifiable reasons could be placed before the Tribunal to enable it to condone the inordinate delay. Needless to say, a litigant is expected to perform his duties diligently and with commitment. Condonation of delay is an exception and should not used as anticipated benefit. The assessee cannot escape the burden of proof for such prolonged delay. The assessee has filed application for condonation of delay but however no valid reason whatsoever could be envisaged from such application except catastrophic situation owing to outbreak of Covid-19. Although, a reference was made to the judgment rendered by the Hon'ble Supreme Court in Misc. Application No.21 of 2022 in recognizance for extension of limitation but however the assessee was already considerably late in filing the

appeal beyond limitation period of 60 days available. Even after exclusion of limitation period extended by the Hon'ble Supreme Court owing to disruption caused by Covid-19, the delay in filing the appeal is in the league of extra ordinary and without any justifiable reason shown. The assessee is ordinarily expected to explain everyday delay and does not have indefeasible right to claim condonation. Non-descript and cryptic reasons cannot be appreciated while adopting a liberal approach in the matter. The assessee cannot escape the burden of proof to support the purported cause for delay. Therefore, it is difficult for us to endorse a flippant affidavit of self-serving nature in justification of lackadaisical attitude of the Assessee. Therefore, in the absence of any merit in the petition for condonation of delay, we decline to entertain the prayer of the assessee. Coupled with this, we also observe that the assessee has raised grievances only by way of additional grounds seeking to claim expenditure in relation to issue of bonus shares. The claim is being made for the first time before the Tribunal by way of additional ground at this belated stage without relevant facts on record. No justifiable reason is available to entertain the additional ground at this belated stage either.

4. Noticeably, assessee himself admits as per Ground No.1 of the appeal that it is not aggrieved by the order of the CIT(A) but seeks to rake up entirely the fresh issue unconnected to the order of the CIT(A) by way of Additional Grounds. We see no reason to entertain such grounds at this belated stage in a belated appeal. Similarly, other ground raised by way of additional grounds towards claim of Education Cess is also devoid of any merit as duly admitted on behalf of the assessee.

5. In summation, we decline to entertain appeal filed beyond the limitation period provided in Section 253(3) of the Act in the facts and circumstances subsisting in the present case.

6. In the result, the appeal of the assessee is dismissed *in limine*.

Order was pronounced in the open Court on 08/05/2023

Sd/-

**[CHANDRA MOHAN GARG]
JUDICIAL MEMBER**

DATED: /05/2023
prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**