

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'D', NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT  
AND  
DR. BRR KUMAR, ACCOUNTANT MEMBER**

**ITA No. 296/Del/2023  
Assessment Year: 2018-19**

Chryso Paris,  
19, Place De La Resistance  
92445, Cedex, Issy Les  
Moulineaux, France.

**PAN: AADCC0892N**  
(Appellant)

Versus DCIT, Circle 3(1)(1),  
International Taxation,  
Delhi.

(Respondent)

Assessee by : Ms. Shreya Loyalka, C.A.  
Revenue by : Sh. Sanjay Kumar, Sr. DR

Date of hearing : 18.10.2023  
Date of pronouncement: 30.10.2023

**ORDER**

This is an appeal by the assessee against order dated 09.12.2022 of learned Commissioner of Income-tax (Appeals)-42, Delhi for assessment year 2018-19.

2. We have heard Ms. Shreya Loyalka, and Shri Sanjay Kumar appearing for the assessee and the Revenue respectively and perused materials on record.

3. The sole grievance of the assessee before us is against *ex parte* disposal of its appeal, that too *in limine* by learned Commissioner (Appeals) without deciding it on merits. Facts on record reveal that while processing the return of income filed by the assessee, the Centralized Processing Centre (CPC) made certain additions/adjustments resulting in enhancement of the returned income. Thereafter, the assessee filed an application under section 154 of the Income-tax Act, 1961 seeking rectification. However, the application filed under section 154 of the Act was also rejected.

4. As it appears, there was delay of 1055 days in filing the appeal before learned first appellate authority against the order passed under section 154 of the Act. Having noticed that there is inordinate delay in filing the appeal and the explanation offered by the assessee seeking condonation of delay is unsatisfactory, learned Commissioner (Appeals) dismissed assessee's appeal *in limine* without condoning the delay.

5. Before us, the submission of the assessee is two-fold. Firstly, the assessee is a non-resident company, being a tax resident of France, has no presence in India. Learned counsel for the assessee submitted, the occurrence of COVID-19 in between also aggravated the situation

and prevented the assessee from taking appropriate steps within the period of limitation. She submitted, the assessee, being a foreign company, was also not well conversant with the limitation provided under the Act. Thus, she submitted, there was genuine cause in not filing the appeal before the first appellate authority within due date. She submitted, since, the assessee has strong case on merits, its appeal should not be dismissed on technical ground.

6. Learned Departmental Representative relied upon the observations of the first appellate authority.

7. Having considered rival submissions, we are of the view that there were *bona fide* reasons, which prevented the assessee from filing the appeal before learned first appellate authority within prescribed period of limitation. It is further observed that while dismissing assessee's appeal *in limine*, learned first appellate authority has not provided due and reasonable opportunity of being heard to the assessee and decided the appeal *ex parte*. This, in our view, is in violation of principle of natural justice. In any case of the matter, before us, learned counsel for the assessee has furnished an affidavit explaining the reasons for delay in filing the appeal. On going through

the contents and averments in the affidavit, we are convinced that the delay in filing the appeal before learned first appellate authority was due to reasonable cause. Accordingly, we set aside the impugned order of learned first appellate authority and direct him to decide the appeal on merits after providing due and reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open court on 30/10/2023.

Sd/-

**(DR. BRR KUMAR)**  
**ACCOUNTANT MEMBER**

Sd/-

**(SAKTIJIT DEY)**  
**VICE-PRESIDENT**

Dated:30.10.2023

\*aks/-