

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

**Before Shri Kul Bharat, Judicial Member
&
Dr. B. R. R. Kumar, Accountant Member**

ITA No. 1426/Del/2023 : Asstt. Year: 2016-17

NGA Technologies P.Ltd., M-88, Saket, New Delhi 110017 (APPELLANT)	Vs	The ACIT, Circle 18(1), New Delhi 110001 (RESPONDENT)
PAN No. AAECN 6554 B		

**Assessee by : Sh. Pranshu Singhal, CA
Revenue by : Sh. Raghunath, Sr. DR**

Date of Hearing: 21.09.2023	Date of Pronouncement: 06.12.2023
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ORDER

Per Dr. B. R. R. Kumar:-

The present appeal has been filed by assessee against the order of Ld. NFAC/CIT(A), Delhi dated 08.03.2023.

2. The assessee has raised the following grounds of appeal are as under:-

1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad both in the eyes of law and on facts.

2. On the facts and circumstances of the case, the Ld. CIT(A) has erred both on facts and in law in passing the order without giving assessee an opportunity of being heard in violation of principle of natural justice.

3. (i) On the facts and circumstances of the case, the Ld. CIT(A) has erred both on facts and in law in not condoning the delay in filing of appeal.

(i) That the delay in filing of appeal before the Ld. CIT(A) was due to the reasons beyond the control of the assessee.

4. On the facts and circumstances of the case and in law, Ld. CIT(A) has erred both on facts and in law in passing the order without giving any findings on the merits of the case.

5. On the facts and circumstances of the case and in law, Ld. CIT(A) has erred both on facts and in law in confirming the disallowance of business promotion expenses amounting to Rs. 2,30,33,455/-.

6. On the facts and circumstances of the case, the learned CIT(A) has erred in confirming the disallowance and dismissing the plea of the appellant without rebutting the explanation so produced and documentary evidences so furnished.

3. The Id. CIT(A) has summarily dismissed the appeal of the assessee owing to delay of 148 days. It was submitted before us that since the assessment was completed at a loss of Rs. 2,01,90,939/- after a disallowance of Rs. 2,30,33,455/-, thereby having no tax demand, the company preferred not to file appeal against the assessment order to avoid litigation cost, being unaware of the fact that penalty proceedings have been initiated against the disallowance so made. The company vide its Board Resolution dated 01.04.2018 had decided to close the business and later on the company was struck off from the Registrar of Companies. After closing the business operations, the directors got engaged in other avenues and pursuits independently as follows:

- Alok Sawhney was employed with Jet Airways in various commercial roles and from April 2018 was based in Amsterdam due to which frequent trips were made within Europe, to and from India.
- Surendra Goel, a US citizen was always based in the USA.
- Vinti Doshi, is a US citizen

4. It was submitted that none of the directors were aware or in a position to look after the penalty proceedings so initiated against the company due to which they also could not seek professional advice on the penalty proceedings so initiated against the company. Thereafter, it was decided to file appeal against the assessment order as the penalty proceedings have already been initiated against the company. Then immediate steps were taken by the company to file appeal before the Commissioner of Income Tax (Appeals) and accordingly the appeal was filed before the Commissioner of Income Tax (Appeals) on 24.06.2019 which got delayed by 148 days.

5. We find the reasons can be considered as justifiable and acceptable to condone the delay and hence, the Id. CIT(A) is hereby directed to adjudicate the issues on merits, after affording an opportunity of being heard to the assessee. The assessee shall comply to the notices issued by the Id. CIT(A) from time to time without seeking and unnecessary adjournments.

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

Order Pronounced in the Open Court on 06/12/2023.

Sd/-
(Kul Bharat)
Judicial Member

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

Dated: 06/12/2023

NV, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, DELHI