

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.671/Bang/2023
Assessment year : 2013-14

Bluestone Jewellery and Lifestyle Pvt. Ltd., 19/4 & 27, 3 <sup>rd</sup> Floor, IndiQube, Outer Ring Road, Kadubeesanahalli, Bangalore – 560 103. <b>PAN: AADCN 6881C</b>	Vs.	The Deputy Commissioner of Income Tax, Circle 1(1)(2), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Hemant Pai, FCA & Shri Akash Deshpande, AR
Respondent by	:	Shri G. Manoj Kumar, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	14.12.2023
Date of Pronouncement	:	14.12.2023

**ORDER**

*Per Laxmi Prasad Sahu, Accountant Member*

This appeal is filed by the assessee against the Order dated 14.02.2022 of the CIT(Appeals)-11, Bangalore for the AY 2013-14.

2. The AO completed the assessment and assessed loss at Rs.12,89,93,906 against the loss claimed of 15,03,58,812 by making

disallowance u/s. 40(a)(i) of Rs.2,08,43,863, disallowance u/s. 14A r.w. Rule 8D of Rs.2,58,505, belated remittance of employees contribution to PF/ESI of Rs.2,62,538. The CIT(Appeals) fixed the case for hearing on different dates, but the assessee did not respond. The CIT(A) observed that the assessee has filed appeal against the order u/s. 143(1) of the Act. However, order u/s. 143(1) was not uploaded by the appellant along with Form 35, instead the appellant uploaded order u/s. 143(3). The CIT(A) issued notice to the assessee on 03.02.2022 asking for copy of order u/s. 143(1), but the same was not complied. Accordingly, the CIT(A) dismissed the appeal of the assessee. Aggrieved, the assessee is in appeal before the ITAT.

3. At the outset, there is a delay of 511 days in filing the appeal for which the assessee has filed application for condonation of delay stating that the impugned order purportedly sent to the email address was not in operation and the assessee was not aware of it. While verifying the status of other matters in August, 2023, the impugned order came to the notice of assessee and appeal was filed immediately which caused delay. It was submitted that the delay was not intentional or deliberate but beyond the control of assessee and therefore it is prayed that the delay may be condoned. After hearing both the parties, it is observed that there are sufficient reasons for the delay and following the judgment of the Hon'ble Apex Court in the case of Collector, Land Acquisition Vs. MST. Katiji and Others (1987) 167 ITR 471, delay in filing the appeal before the Tribunal is condoned.

4. The Id. AR submitted that the assessee was unable to comply with the notices issued by the CIT(Appeals), since the notices were sent to [statutorycompliance@bluestone.com](mailto:statutorycompliance@bluestone.com) which was not the correct email-id and the correct email id was provided in Form 35 before the CIT(A). He prayed for another opportunity to the assessee to substantiate assessee's claim before the CIT(Appeals) and he undertook to comply with the notices and file necessary documents in support of the claim.

5. On the other hand, the Id. DR opposed to providing another opportunity to the assessee since the assessee did not comply to the various notices issued by the CIT(A).

6. After considering the rival submissions, we note that the assessee has not represented its case in terms of notice issued by the CIT(Appeals). The CIT(Appeals) passed the order on the basis of material on record. Considering the prayer of the assessee, in the interest of justice, we deem it fit to provide one more opportunity to the assessee to substantiate his claim. Accordingly we restore the case to the Id. CIT(Appeals) for de novo consideration and decision as per law, after reasonable opportunity to the assessee. The assessee is directed to comply with the notices issued and also intimate the correct email-id / communication address and telephone/mobile no. of the assessee to the department. The assessee is also directed not to seek unnecessary adjournment for early disposal of the case.

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

Pronounced in the open court on this 14<sup>th</sup> day of December, 2023.

Sd/-  
( GEORGE GEORGE K. )  
VICE PRESIDENT

Sd/-  
(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 14<sup>th</sup> December, 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.