

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
MS. MADHUMITA ROY, JUDICIAL MEMBER**

<b>ITA No. 654/Bang/2023</b>
<b>Assessment Year : 2019-20</b>

M/s. 3EMBED Software Technologies Pvt. Ltd., # 54, RBI Colony, 1 <sup>st</sup> Main, 10 <sup>th</sup> Cross, Anandnagar, Hebbal, Bangalore – 560 024. <b>PAN: AAACZ5686L</b>	<b>Vs.</b>	The Assistant Director of Income Tax, CPC, Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Smt. Pratibha R, Advocate
Revenue by	:	Dr. Nischal, Addl. CIT (DR)

Date of Hearing	:	13-12-2023
Date of Pronouncement	:	09-01-2024

**ORDER**

**PER MADHUMITA ROY, JUDICIAL MEMBER**

The instant appeal has been filed by the assessee against the order dated 28.07.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi arising out of the order dated 18.03.2021 passed by the ADIT, CPC, Bangalore u/s. 143(1) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for A.Y. 2019-20.

2. At the outset of the proceeding, the Ld.Counsel appearing for the appellant submitted before us that the appeal preferred by the appellant before the First Appellate Authority was barred by limitation for 143 days. The plea before the said authority taken by the appellant was this that the appellant filed application u/s. 154 of the Act before the Ld.AO which was still pending consideration and the appellant was waiting for the same. In that view of the matter, there was no intentional latches on the part of the appellant in preferring the appeal before the Ld.CIT(A). However, this particular aspect of the matter has not been considered in its proper perspective; having been not satisfied with the explanation rendered by the appellant, the Ld.CIT(A) dismissed the appeal refusing condonation of delay.
3. The Ld.AR contended that the explanation rendered by the appellant as genuine, the delay ought to have been condoned by the Ld.CIT(A). Such submission made by the Ld.AR has not been able to be controverted by the Ld.DR.
4. Having heard the Ld.Counsel appearing for the parties and having regard to the facts and circumstances of the case, we are of the considered opinion that the explanation rendered by the appellant seems to be genuine as the application u/s. 154 filed by the appellant was pending before the Ld.AO which was sufficient enough for not being satisfied to come to a conclusion by the appellant in filing the appeal before the First Appellate Authority unless the same is finalized by the

Ld.AO. This ought to have been considered by the Ld.CIT(A) in its proper perspective. We, thus, considering the explanations as genuine and in the absence of any latches on the part of the appellant found, condone such delay in preferring the appeal before the Ld.CIT(A) by the appellant. However, for the ends of justice, we remit the issue to the file of Ld.CIT(A) to adjudicate the same on merits upon giving an opportunity of being heard to the appellant and upon considering the evidence on record or any other evidence which the appellant may choose to file at the time of hearing of the matter.

**In the result, the appeal filed by the assessee stands allowed for statistical purposes.**

Order pronounced in the open court on 09<sup>th</sup> January, 2024.

Sd/-  
(CHANDRA POOJARI)  
Accountant Member

Sd/-  
(MADHUMITA ROY)  
Judicial Member

Bangalore,  
Dated, the 09<sup>th</sup> January, 2024.  
/MS /

Copy to:

- |               |                        |
|---------------|------------------------|
| 1. Appellant  | 2. Respondent          |
| 3. CIT        | 4. DR, ITAT, Bangalore |
| 5. Guard file |                        |

By order

Assistant Registrar,  
ITAT, Bangalore