

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "G" Bench, Mumbai.

Before Shri B.R. Baskaran (AM) & Shri Aby T. Varkey (JM)

I.T.A. No. 3094/Mum/2023 (A.Y. 2014-15)

Sea Trade Shipping India Pvt. Ltd. 106, Technopolis Knowledge Park Mahakali Caves Road Chakala, Andheri-East Mumbai-400 093. PAN : AAHCS9557L (Appellant)	Vs.	ACIT, Central 2(3)(2) Mumbai. (Respondent)
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Assessee by	Shri Hiten Thakkar
Department by	Shri Nayanjyoti Nath
Date of Hearing	07.02.2024
Date of Pronouncement	09.02.2024

ORDER

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 06.01.2023 passed by the learned CIT(A), National Faceless Appeal Centre, Delhi and it relates to A.Y. 2014-15.

2. The appeal filed by the assessee is barred by limitation by 178 days. The assessee has filed a petition requesting the bench to condone the delay. In the petition, the Deputy General Manager of the assessee group has stated that she took charge of the taxation department of the assessee group in January, 2023 and the earlier tax head had resigned in the month of June, 2022. Hence, in the intervening period, no tax head was available in the assessee group. The deponent has further stated that, after undergoing internship business orientation training, she was attending time barring notices from GST department, attending statutory audit work etc. When she

contacted the taxation matters to the newly appointed tax consultants, they advised the assessee to file the appeal against the order passed by the learned CIT(A). Accordingly, the present appeal was filed with the delay. It is further stated that the delay in filing the appeal before the Tribunal was unintentional. Accordingly, it was prayed that the delay may be condoned.

3. We heard learned DR on this preliminary issue. Having regard to the submissions made in the affidavit, we are of the view that there was reasonable cause for the delay in filing the present appeal, since the delay has happened on account of employee's delinquency. Accordingly, we condone the delay and admit the appeal for hearing.

4. The only issue urged in this appeal relates to the addition made by the Assessing Officer on account of difference in the income reported in Form No. 26AS and that was declared in the return of income filed by the assessee.

5. The Learned AR submitted that the assessee is a shipping agent and it provides various services to the shipping companies. It usually receives freight charges from the customers and remits the freight charges to the shipping companies, after deducting its commission. Accordingly, he submitted that the income of the assessee consisted of commission income and other services charges received from various persons, which were duly disclosed in the return of income. However, the remitter of freight charges has deducted TDS on the gross amount paid by it and hence the gross amount of freight charges was reflected in Form 26AS. The same has resulted in a difference between the income disclosed by the assessee in the return of income and that was shown in Form 26AS. The Learned AR submitted that the freight charges received from the clients actually constitute income of the shipping companies only.

6. The Learned AR submitted that the assessee has furnished all these details before the tax authorities but the same was not appreciated by the tax authorities and impugned addition was made. He submitted that the assessee has already filed reconciliation statement and will also file the same again, if an opportunity is given. Accordingly, he prayed that the matter may be file to the Assessing Officer for examining the factual aspects of the contentions made by the assessee. When the bench asked as to the quantum of TDS credit claimed by the assessee, the Ld A.R submitted that the TDS amount relating to the commission income alone was claimed by the assessee. In our view, this fact also requires examination.

7. We heard the parties on this issue and perused the record. Having regard to the submissions made by learned AR, we are of the view that this issue requires fresh examination at the end of the Assessing Officer. Accordingly, we set aside the order passed by the learned CIT(A) on this issue and restore the same to the file of Assessing Officer for examining it afresh in accordance with law. We also direct the assessee to furnish a reconciliation statement and also the details of TDS claimed by it before the AO and also fully cooperate with the Assessing Officer for expeditious completion of assessment.

8. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced on 09.02.2024.

Sd/-
(Aby T. Varkey)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Mumbai.; Dated : 09/02/2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai