

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH : BANGALORE**

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

ITA No.130/Bang/2024
Assessment Year : 2021-22

Citadel Propcon Pvt. Ltd., 1007, Sujaya, HAL 2 <sup>nd</sup> Stage, 13 <sup>th</sup> Main, 2 <sup>nd</sup> Cross, Indira Nagar, Bangalore-560 008.  <b>PAN – AAEC 1446 M</b>	Vs.	The Asst./Dy. Commissioner of Income Tax, Circle-2(1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Guruswamy, ITP
Revenue by	:	Shri V Parithivel, JCIT (DR)

Date of hearing	:	13.03.2024
Date of Pronouncement	:	04.04.2024

**ORDER**

**PER SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

This is an appeal filed by the assessee against the order passed by the NFAC, New Delhi on 29/08/2023 u/s 250 of the Income-tax Act, 1961 (Act) in DIN No. ITBA/NFAC/S/250/2023-24/1055543585(1) for the assessment year 2021-22.

2. At the very outset, we noticed that the appeal of the assessee before the first appellate authority has been decided ex parte. The reason for deciding the appeal by the CIT(A) ex parte was that several notices issued from the Office of the first appellate authority for filing written submission was not complied with by the assessee.

3. The assessee filed application for condonation of 87 days delay vide Affidavit dated 22.01.2024. We noted from the Affidavit that the assessee has stated the reason for delay in filing the appeal, which is as under:-

*“That the Chartered Accountant Sri Seshachelapati, head of the Office has entrusted the matter of filing an appeal against the Appellate Order of NeFC, Delhi for the Asst. Year 2021-22 relating to the case of M/s Citadel Propcon Private Ltd. Indiranagar, Bangalore in the month of September 2023. However, the Appellate Order inadvertently was misplaced and the same was located on 22.01.2024 while searching the papers of the other clients and filing of appeal in the above case as on 22.01.2024 was barred by limitation of time by 96 days.”*

4. We have heard the rival submission of both the parties and after pursuing of the materials placed before us and we are satisfied that the delay in filing the appeal was due to reasonable and sufficient cause and the delay in filing the appeal deserves to be condoned. We accordingly condone the delay in filing the appeal after relying on the

judgment of Hon'ble Supreme Court in the case of Collector, Land Acquisition Vs. MST. Katiji and Others 167 ITR 471.

5. The learned AR submitted that the appeal had migrated to National Faceless Assessment Centre (NFAC) and the hearing notices issued were never received by the assessee. and submitted that it might have gone to spam folder, therefore, assessee could not comply to any of the notices. He undertook that if a chance is given to the assessee it will comply will comply the notices issued by the Revenue authorities accordingly he prayed that that the matter may be sent back to the CIT(A) to decide the case afresh.

6. On the other hand, the ld.DR relied on the orders of authorities below and strongly objected in sending back the appeals since both the authorities have given ample opportunities to the assessee to comply his case but the assessee deliberately did not comply any of the notices issued by both the authorities. Therefore, both the authorities have rightly decided the case of the assessee on merit with the material available with them.

7. After considering the rival submissions, the appeal of the assessee migrated to NFAC. It is stated by the learned

AR that the hearing notice issued by NFAC were not received by the assessee. We note that since assessee has reason for not complying the notices, considering the request made by the ld.AR of the assessee and in the interest of justice, we are remitting the issue back to the file of the CIT(A) for fresh consideration. The CIT(A) is directed to give reasonable opportunity of being heard to the assessee and decide the issue as per law. The assessee is directed to produce the necessary documents for substantiating her case and to avoid unnecessary adjournments for early disposal of the case and update the email, mobile No. and address for communication.

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

Order pronounced in court on 4<sup>th</sup> day of April, 2024.

Sd/-  
**(GEORGE GEORGE K)**  
Vice President

Sd/-  
**(LAXMI PRASAD SAHU)**  
Accountant Member

Bangalore,  
Dated : 04.04.2024.

Vms

Copyto:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore