

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH
HEARING THROUGH: VIRTUAL MODE
श्री संजय गर्ग, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य
BEFORE: SHRI. SANJAY GARG, JM & SHRI. VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA NO. 56/Chd/ 2023
निर्धारण वर्ष / Assessment Year : 2017-18

M/s JSTI Transformers Pvt. Ltd. HB No. 214, Bhatauli Kalan, Hilltop Indl. Area, Jharmarjr, Dist: Solan Baddi-173205, Himachal Pradesh	बनाम	The ITO Baddi
स्थायी लेखा सं./PAN NO: AACJ1285D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Hari Krishan, ITP
राजस्व की ओर से/ Revenue by : Shri Surinder Meena, Sr. D.R

सुनवाई की तारीख/Date of Hearing : 01/04/2024
उद्घोषणा की तारीख/Date of Pronouncement : 05/04/2024

आदेश/Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the Assessee against the order of the Ld. CIT(A), Delhi-44 dt. 15/12/2022 pertaining to Assessment Year 2017-18.

2. During the course of hearing, it was submitted by the Id AR that the Ld. CIT(A) has erred in not condoning the delay of 40 days in filing of the appeal.

3. In this regard, it was submitted that in this case, the assessment order dated 27-12-2019 was served on the assessee on the same date, i.e. 27-12-2019. Accordingly, the appeal was required to be filed by 26-01-2020 i.e., within 30 days from the date of the service of the assessment order, as prescribed u/s 249(2) of the Income Tax Act. The appeal was filed on 14-07-2020. Thus, there was a delay of 169 days in filing of the appeal before the Ld. CIT(A). However, in view of the judgement of Hon'ble Supreme Court in Cognizance for Extension of Limitation (2022) 441 ITR 722(SC), the period of 121 days from 15-03-2020 upto 14-07-2020 is to be excluded. The actual delay in filing of the appeal was accordingly only 48 days, i.e from 26-01-2020 to 15-03-2020.

3.1 It was submitted that Mr Amteshwar Singh Gulati working as Manager (Finance) in the assessee company, who was looking after the income tax compliances, has, by an oversight, omitted to send the assessment order to M/s Grant Thornton & Associates, the Chartered Accountants of the company, well in time for further necessary action like filing of the appeal, etc. This has resulted in delay of 48 days in filing the appeal. However, the government fee of Rs. 1000/- for filing the appeal before the Ld. CIT (Appeal) has been paid on 23-01- 2020, vide challan No. 2671 bearing BSR Code No. 6390340, well within the period of 30 days. In the meantime, the nation wide restrictions and lockdown was imposed because of COVID-19. After the relaxation in the COVID-19 related restrictions and the lockdown, Mr. Amteshwar Singh Gulati verified the pending matters and realised that the further necessary action, like filing of appeal, etc. has not been taken in this matter. Thereafter Mr. Amteshwar Singh Gulati immediately took step towards, consulting the Chartered Accountants etc. and the appeal was eventually filled on 14-07-2020.

3.2 It was submitted that the Ld. CIT(A) has failed to appreciate that the payment of the Government fee of Rs.1,000/- for filing the appeal before the Ld. CIT(A), has been already made on 23- 01-2020, well before the limitation period of 30 days. This fact has been clearly mentioned in para 16 of Form No. 35 filed before the Ld. CIT(A). The assessee was diligent enough to have paid the government fees well in time, for filing the appeal. Thus, the bonafides of the assessee for delay in filing the appeal before the Ld. CIT(A) have been fully established. The delay in filing the appeal before the Ld. CIT(A) was due to a bonafide and reasonable cause, the same may be condoned.

3.3 It was further submitted that the Ld. CIT(A) has erred in not deciding the matter on merits of the case and it was accordingly submitted that the delay so happened may be condoned and the matter be set aside to the file of the Ld. CIT(A) to decide the same on merits.

4. Per contra the Id. DR has relied on the order of the Id CIT(A), at the same time, has not expressed any reservation where the matter is remitted back to the file of the Id CIT(A) for deciding the matter on merits of the case.

5. We have heard the rival contentions and perused the material available on record. As far as delay of 48 days is concerned, we find that the appeal filing fee has been paid within the limitation period, the concerned employee handling the tax matters left the services of the assessee company, nation-wide lockdown was subsequently announced beyond the control of the assessee and keeping the same into account, the Hon'ble Supreme Court has also extended the limitation period for filing appeal etc. In view of the same, we find that the assessee has demonstrated the reasonable cause for the delay in filing the appeal and the same is hereby condoned.

6. On merits, we find that the matter has not been decided by the Id CIT(A). We accordingly set aside the impugned order with a direction to the Id. CIT(A) to decide the appeal on merits of the case as per law after giving proper and adequate opportunity to the assessee.

7. The appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open Court on 05/04/2024.

Sd/-

संजय गर्ग
(SANJAY GARG)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य/ ACCOUNTANT MEMBER

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar