

| आयकर अपीलिय अधिकरण न्यायपीठ, कोलकाता |  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER  
&  
SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER

**I.T.A. No. 198/Kol/2024**  
**Assessment Year: 2018-19**

<b>Palsons Derma Pvt. Ltd.</b> 10/D/1, Ho-Chi-Minh Sarani Kolkata - 700001 <b>[PAN : AAACP5629D]</b>	Vs	<b>Dy. Commissioner of Income Tax,</b> <b>Circle - 11(1), Kolkata</b>
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Manish Tiwari, FCA
Revenue by :	Shri Archana Gupta, Addl. CIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 18/04/2024  
घोषणा की तारीख /Date of Pronouncement: 08/05/2024

**आदेश/ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The present appeal is directed at the instance of the assessee against the order of the learned Commissioner of Income Tax (Appeals) (hereinafter the "Id. First Appellate Authority") dt. 26/12/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2018-19.

2. The grievance raised in Ground No. 1 is that the Id. First Appellate Authority erred in not condoning the delay of 675 days in filing of the appeal and dismissing the assessee's appeal as non-maintainable.

3. At the outset, the Id. Counsel for the assessee submitted that the delay as arisen because after receiving intimation u/s 143(1)(a) of the Act, rectification filed u/s 154 of the Act was rejected and in the meantime, case was selected for scrutiny and assessment completed u/s 143(3) of the Act dealing with the issues arising out of the intimation

u/s 143(1)(a) of the Act and no additions were made on the said issue in the assessment proceedings u/s 143(3) of the Act. However, the demand raised in the intimation u/s 143(1)(a) of the Act is still outstanding. He further submitted that since the assessee was under *bonafide* belief that if the assessee succeeds in the proceedings u/s 143(3) of the Act, he will not be required to file any appeal. Further after receiving the order u/s 143(3) of the Act dt. 02/04/2021, Covid-19 restrictions were in effect which prevented the assessee from filing the appeal before the Id. First Appellate Authority. He, thus prayed that the delay be condoned and issues may be restored to the Id. First Appellate Authority.

On the other hand, the Id. D/R vehemently argued opposing to the request of the Id. Counsel for the assessee and relied on the order of the authorities below.

4. We have heard rival contentions and perused the material placed before us. The Id. CIT(A) dismissed the assessee's appeal as non-maintainable on account of delay of 675 days. We notice that the delay was caused due to the second wave of Covid pandemic and the assessee was prevented from filing the appeal in April, 2021 till 02/11/2021. However, for the remaining period prior to Covid, we notice that the intimation u/s 143(1)(a) of the Act, order is dt. 28/11/2019 wherein certain adjustments were made and additions made in the hands of the assessee. On 14/11/2019, the assessee filed a rectification petition and also filed a revised tax audit report on 06/02/2020. In the meantime, case selected for scrutiny and assessment proceedings u/s 143(3) of the Act were carried out and the same were completed on 02/04/2021. As

contended by the ld. Counsel for the assessee, the issues arising out of the intimation u/s 143(1)(a) of the Act were examined by the ld. Assessing Officer and no addition was made. However, while computing the total income, the figures arising in the intimation u/s 143(1)(a) of the Act has been taken. As a result of which, on one hand, demand arising out of the order u/s 143(1)(a) of the Act is still standing and secondly, a demand arising out of the order u/s 143(3) of the Act is again standing in the name of the assessee. Considering all these aspects, we find that the assessee had a reasonable cause for being unable to file the appeal within the prescribed time limit. We, therefore, condone the delay of 675 days in filing the appeal before the ld. First Appellate Authority and restore the issues raised in the instant appeal on merits to the file of the ld. First Appellate Authority for necessary adjudication and decide through a speaking order duly considering the assessment order u/s 143(3) of the Act. Needless to say that the assessee be granted sufficient opportunity of being heard. The assessee shall adduce all necessary documents/evidence in support of its claim before the ld. First Appellate Authority.

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

**Order pronounced in the Court on 8<sup>th</sup> May, 2024 at Kolkata.**

*Sd/-*  
**(SONJOY SARMA)**  
**JUDICIAL MEMBER**

*Sd/-*  
**(DR. MANISH BORAD)**  
**ACCOUNTANT MEMBER**

Kolkata, Dated 08/05/2024

*SC Sarma*

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

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Kolkata