

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Mahavir Singh, Vice President
And
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.22/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2019-20)

Krishnateja Finance & Investments (P) Ltd Hyderabad PAN:AABCK0280C	Vs.	Income Tax Officer Ward 2(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri P Murali Mohan Rao, CA	
राजस्व द्वारा/Revenue by:	Shri Shakeer Ahmed, DR	
सुनवाई की तारीख/Date of hearing:	15/05/2024	
घोषणा की तारीख/Pronouncement:	15/05/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 12.12.2023 of the learned CIT (A)/Addl./JCIT(A)-2, Jaipur, relating to A.Y.2019-20.

2. Brief facts of the case are that the assessee filed its return of income for the A.Y 2019-20 on 29.10.2019 declaring

total income of Rs.8,52,53,773/-. The return was processed u/s 143(1) of the I.T. Act,1961 on 16.01.2020 by making an addition of Rs.50.00 lakhs to the returned income, thereby raising a demand of Rs.15,00,740/-. The due date for filing of the appeal before the first appellate authority was 15.06.2020. The appellant had filed the appeal on 1.11.2022 i.e. after delay of 869 days. The appellant has filed a petition along with the reasons explaining the delay before the first appellate authority. As per the reasons given by the appellant, the appeal could not be filed in time because of prevailing Covid 19 situation. However, the delay in filing of the appeal is neither intentional nor for wanton of any undue benefit, therefore, requested to condone the delay in filing of the appeal. The learned CIT (A) after considering the submissions of the assessee dismissed the appeal filed by the assessee unadmitted on the ground that even after exclusion of delay covered during the Covid period, still there is a delay of approximately 245 days which the appellant could not explain with valid reasons. Therefore, rejected the arguments of the assessee and dismissed the appeal unadmitted.

3. Aggrieved with such order of the learned CIT/ Addl./JCIT(A)- the assessee is in appeal before the Tribunal.

4. The learned Counsel for the assessee Shri P Murali Mohan Rao, submitted that the learned CIT (A) erred in dismissing the appeal filed by the assessee unadmitted for delay in filing of the

appeal even though the appellant given reasons for not filing the appeal within the prescribed time allowed under the Act. Therefore, he submitted that the delay in filing of the appeal before the first appellate authority may be condoned and the appeal may be set aside to the file of the learned CIT (A) to decide the issue in accordance with law.

5. The learned DR Shri Shakeer Ahmed, on the other hand, supporting the orders of the first appellate authority submitted that the reasons given by the appellant for not filing the appeal within the time allowed under the Act before first appellate authority does not come under reasonable cause and the learned CIT (A) has rightly dismissed the appeal filed by the assessee and the order of the first appellate authority be upheld.

6. We have heard the rival arguments made by both the sides and perused the orders of the authorities below. Admittedly, the appeal has been filed with a delay of 869 days. Further, the delay of 869 days is covered by covid period. If we exclude the delay covered by Covid period, still there is a delay of 245 days in filing of the appeal. In so far as the delay covered by the Covid period is concerned, there is no dispute whatsoever with regard to the direction of the Hon'ble Supreme Court in the suo moto writ petition in Miscellaneous Appeal No.21/2022 wherein the Hon'ble Supreme Court has directed the Courts/Tribunals to

consider the delay in filing of any petition/appeals with a liberal view. In so far as the delay not covered by the covid period is concerned, the assessee need to explain the reasons for not filing the appeal in time. The assessee has explained the reasons for not filing the appeal before the first appellate authority within the time allowed under the Act. We have gone through the reasons given by the assessee and as per the assessee, the appeal order passed by the first appellate authority was received during peak covid period and the same was not brought to the notice of the management. Further, the assessee has taken steps to file the appeal only when the Department has issued demand notice to the assessee for recovery of taxes and ascertained that the appeal was not filed against the order passed by the Assessing Officer. Therefore, the assessee has taken steps to file the appeal which caused delay of 249 days. The said delay was neither intentional nor for wanton of any undue benefit. We find that as claimed by the assessee, the appellate order passed by the first appellate authority was received during peak covid period. During the covid period many people were not in a position to attend their day-to-day work because of prevailing covid situation. Therefore, when the appellate order was received during covid period, it is quite possible for anybody to forget the issue. Further, as claimed by the assessee, the person who has received the appellate order was not brought to the notice of the management. Since the appellate order was received during covid period, in our considered opinion, the learned CIT (A) ought to have taken a liberal view while

considering the petition filed by the assessee for condonation of delay. Thus, we are of the considered opinion that the delay in filing of the appeal before the first appellate authority needs to be condoned in the interest of substantial justice. Hence, we condone the delay in filing of the appeal before the first appellate authority and restore the issue back to the file of the learned CIT (A) for fresh adjudication on merit.

7. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 15th May, 2024.

Sd/-

Sd/-

(MAHAVIR SINGH) VICE PRESIDENT	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 15th May, 2024

Vinodan/sps

Copy to:

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2	Income Tax Officer Ward 2(1) Hyderabad
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order