

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

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| ITA No. 570/Bang/2024 |
| Assessment Year : 2022-23 |

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| M/s. MResult Services Pvt. Ltd., 5 th Floor, West Wing, Raheja Towers, M.G. Road, Bengaluru – 560 001. PAN: AADCM9518M | Vs. | The Deputy Commissioner of Income Tax, Circle – 4(1)(1), Bangalore. |
| APPELLANT | | RESPONDENT |

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|-------------|---|--------------------------|
| Assessee by | : | Shri Hasmukh Raveria, CA |
| Revenue by | : | Shri Srinath .S, JCIT-DR |

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| Date of Hearing | : | 08-05-2024 |
| Date of Pronouncement | : | 31-05-2024 |

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order dated 17.01.2024 passed by the Ld.CIT(A)-13 for A.Y. 2022-23.

2. Brief facts of the case are as under:

2.1 The assessee is a company and is engaged in rendering IT enabled services. It filed its return of income for year under consideration on 07.11.2022 declaring total income of Rs.4,12,05,661/-. The intimation dated 28.07.2023 was processed by the CPC u/s. 143(1) of the act accepting the

returned income. However, the tax liability was calculated at Rs.1,37,56,098/- as against Rs.1,03,70,641/- thereby raising a demand of Rs.7,00,680/-.

2.2 Aggrieved by the order of the CPC, assessee filed appeal before the Ld.CIT(A).

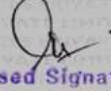
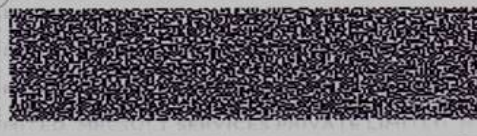


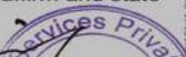
2.3 Before the Ld.CIT(A), it was submitted that the assessee had opted for the benefit of the lower tax rate as per section 115BAA of the act in A.Y. 2021-22. It was submitted that accordingly for the year under consideration, the tax liability should have been computed at the rate prescribed in section 115BAA i.e. at 22% + surcharge and cess. However, while processing the return, the CPC did not grant the benefit rate of 22% instead computed the tax liability at 30%. As a consequence, all the higher tax rate, interest u/s. 234B and C was also charged. The Ld.CIT(A) vide order dated 17.01.2024 did not appreciate the submissions of the assessee and upheld the computation of the CPC at higher tax rate.

2.4 Aggrieved by the order of the Ld.CIT(A), the assessee has filed the present appeal before this *Tribunal*.

3. At the outset, it is submitted that there is a delay of 10 days in filing the present appeal before this *Tribunal*.

3.1 The assessee has filed condonation petition vide affidavit dated 26.03.2024 seeking the delay to be condoned.

3.2 The assessee in the affidavit submitted as under:

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|---|---|---|
|  INDIA NON JUDICIAL Government of Karnataka सत्यमेव जयते | | Rs. 100 |
| e-Stamp | | |
| Certificate No. | : | IN-KA67669844681776W |
| Certificate Issued Date | : | 26-Mar-2024 10:49 AM |
| Account Reference | : | SHCIL (FI)/ ka-shcil/ SHCIL MANGALORE/ KA-DK |
| Unique Doc. Reference | : | SUBIN-KAKA-SHCIL95913600460007W |
| Purchased by | : | MRESULT SERVICES PRIVATE LIMITED |
| Description of Document | : | Article 4 Affidavit |
| Property Description | : | AFFIDAVIT |
| Consideration Price (Rs.) | : | 0 (Zero) |
| First Party | : | MRESULT SERVICES PRIVATE LIMITED |
| Second Party | : | DEPUTY COMMISSIONER OF INCOME TAX 4 1 1 BANGALORE |
| Stamp Duty Paid By | : | MRESULT SERVICES PRIVATE LIMITED |
| Stamp Duty Amount(Rs.) | : | 100 (One Hundred only) |
| | |  Authorised Signatory For Stock Holding Corporation of India Mangaluru |
|   | |  RS. 100 26-MAR-2024 10:49 AM |
| AFFIDAVIT | | |
| Please write or type below this line | | |
| BEFORE THE HON'BLE MEMBERS OF THE INCOME TAX APPELLATE TRIBUNAL, MUMBAI | | |
| Ref: In the case of MResult Services Private Limited - AY 2022-23 | | |
| APPLICATION FOR CONDONATION OF DELAY IN FILING OF APPEAL | | |
| 1. I, Mohan Naik son of Thyampanna Naik, aged 57 yrs, Managing Director of the MResult Services Private Ltd. ("Company" or "Assessee") having PAN AADCM9518M at present residing at Villa 11, Hebron Enclave, K R Puram, Off T C Palya Main Road, Krishnarajapuram, Bengaluru - 560036 do solemnly affirm and state on oath that: | | |
| | |   |

2. The Company filed its return for AY 2022-23 on November 7, 2022, declaring the total income at Rs. 4,12,05,661. The Central Processing Centre ("CPC") issued an intimation dated July 28, 2023 under section 143(1) of the Income-tax Act, 1961 ('Act') accepting the returned income, but a higher tax liability was computed by CPC.
3. In appeal proceedings, the Addl./Joint Commissioner of Income-Tax (Appeals)-13, Mumbai ['JCIT(A)'] passed the order dated January 17, 2024 upholding the higher tax liability.
4. The order of the JCIT(A) contained certain mistakes apparent on record, which if rectified, there would not have been the requirement of challenging the order of the CIT(A) before this Hon'ble Tribunal. Accordingly, the Company filed a rectification application on February 20, 2024 with the JCIT(A) (on the Income Tax portal) and the Company was awaiting the rectification order to be passed by the JCIT(A).
5. The Company was required to file its appeal within 60 days from the date of receipt of order of the JCIT(A) i.e., on or before March 16, 2024. However, before the due date, unexpectedly, the Company's employee responsible for handling the appeal filing work fell indisposed, affecting the timely filing of appeal. The pendency of appeal was later discovered on March 21, 2024 from the Company's consultant B.K. Khare & Co., Chartered Accountants, who informed the Company about the passing of assessment order dated February 28, 2024 in the AY 2022-23 under section 143(3) of the Act. Thereafter, Company's employee, who resumed by then, immediately took the steps for filing of the appeal. Thus, the Company could not file appeal on or before March 16, 2024.
6. It is prayed that the delay of 10 days in filing of the appeal be condoned since the delay was caused due to reasons beyond the control of the Company and if the delay is not condoned, the grave and irreparable harm would be caused to the Company. Therefore, it is prayed that the said delay be condoned in the interest of justice, equity and fair play.

VERIFICATION

I, Mohan Naik, Director of the Company do hereby verify that the contents of above paras are true to the best of my knowledge and belief.


Deponent

Date: March 26, 2024

Place: Bengaluru

3.3 The Ld.AR submitted that in view of the above, the assessee could not file the appeal before this *Tribunal* well in time and by the time the appeal papers were prepared for filing, there arose delay of about 10 days in filing these present appeal before this *Tribunal*. The reason for the delay in filing the present appeal was due to reason beyond the control of the assessee.

He thus prayed for the delay to be condoned.

3.4 The Ld.DR though objected however could not controvert the reasoning given by the Ld.AR for the delay that was caused in filing the present appeal.

We have perused the submissions advanced by both sides in the light of records placed before us.

3.5 It is noted that there is no malafide intention on behalf of assessee in not filing the present appeal within time. It is noted that there is no malafide intention on behalf of assessee in not filing the present appeal within time. In our opinion there is a sufficient cause for condoning the delay as observed by *Hon'ble Supreme Court* in case of *Collector Land Acquisition Vs. Mst. Katiji & Ors.*, reported in (1987) 167 ITR 471 in support of his contentions, wherein, *Hon'ble Court* observed as under:-

"The Legislature has conferred the power to condone delay by enacting section 51 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits ". The expression "sufficient cause" employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court

has been making a justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy.

And such a liberal approach is adopted on principle as it is realized that :

1. Ordinarily, a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.

.....1.Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.”

3.6 Considering the above observation by *Hon’ble Supreme Court*, we find it fit to condone the delay caused in filing the present appeal.

Accordingly, the delay of 10 days in filing the present appeal before this Tribunal is condoned.

4. On merits of the case, the Ld.AR submitted that the assessing officer has subsequently rectified the issue under consideration and has passed the order u/s. 143(3) r.w.s. 144B of the act on 28.02.2024 wherein the income has been computed as per the income declared by the assessee under the ITR. It is also noted that the assessee has filed form 10IC on 31.10.2023 for A.Y. 2021-22 within the extended time limit prescribed in Circular 19/2023 dated 23.10.2023. The assessee has opted for taxation

u/s. 115BAA. The assessee had also relied on the decision of *Hon'ble Delhi High Court* in case of *A.C. Surgipharma (P.) Ltd. vs. DCIT* reported in (2023) 157 taxmann.com 360 wherein the *Hon'ble Court* directed the CBDT to process the taxpayer's request contained in form 10IC by condoning the delay in filing the same. It was submitted that identical is the circumstances with that of the assessee and as assessee has already been assessed as per the rate u/s. 115BAA. For the immediately preceding assessment year, the same rate shall continue in the subsequent assessment years also. Be that as it may, as there is no grievance with the assessee, subsequent to the passing of the assessment order dated 28.02.2024 which is after passing of the impugned order, the present appeal becomes academic at this stage and deserves to be dismissed.

In the result, the appeal filed by the assessee stands dismissed.

Order pronounced in the open court on 31st May, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 31st May, 2024.
/MS /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. Guard file

By order

Assistant Registrar,
ITAT, Bangalore