

**THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SHRI G.S. PANNU, VICE-PRESIDENT AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No. 2638/Del/2019
Assessment Year: 2012-13

Modern Transit Solutions Pvt. Ltd., B-251, Okhla Phase-I, Industrial Area, Delhi -1100 20	Vs.	ITO, Ward 17(1), New Delhi
PAN: AAGCM1181P		
(Appellant)		(Respondent)

Assessee by	N o n e
Department by	Shri Baldev Singhj Nagi, Sr. DR

Date of hearing	09.05.2024
Date of pronouncement	09.05.2024

ORDER

PER ANUBHAV SHARMA: JUDICIAL MEMBER:

Assessee has filed the appeal against the order dated 03.03.2017 under Section 250 of the Income-Tax Act, 1961 (hereinafter referred "the Act") passed by the learned Commissioner

of Income-Tax (Appeals)-38, New Delhi in an appeal before him arising out of assessment order dated 25.03.2015 passed by the ITO, Ward-17, New Delhi (hereinafter referred as “the A.O. or in short “AO”) under Section 143(3)/144 of the Act for assessment year 2012-13.

2. Heard and perused the record. As the case was called for hearing, none appeared for and on behalf of the assessee and record shows ever since institution of appeal, repeated notices have been issued but assessee has not appeared and on only one occasion i.e. 22.11.2022 in written request was received and on 08.05.2023, Shri S. Sinha, CA had appeared and sought adjournment, notices also served through the department and a report dated 04.05.2023 of ITO, Ward-17, New Delhi is filed that at the given address, assessee was not found available. No more opportunity justified.

3. Arguments of learned Departmental Representative were heard who pointed out that the appeal has been filed delayed by 581 days.

4. In this context, we find an application for condonation of delay along with an affidavit of one Shri Devang Jayantilal Shah who has deposed the facts of application to be correct is filed wherein it is

mentioned that the assessment order was received on 21.06.2017. It is mentioned that Accountant had resigned in the month of June 2012 and the files were retained by the Accountant. The files were lying with the said Accountant and were not handed over to new CA and during the very audit of financial year 2018-19, status of the case was asked by the auditor and it came to the notice of assessee's company on an inquiry made by the audit team that the appeal has not been filed.

5. As we appreciate, the application and the affidavit it comes up that the application and affidavit are filed by one Shri Devang Jayanti Lal Shah, but, in what capacity, the same have been filed is not appearing, although. In Form-36, though, the signatures appear as Director. The affidavit as filed is not attested as required under law to be attested bringing categorically as to what part is deposed on an knowledge and what part is deposed on the information and belief. There is no mention of any person who was assigned the task of filing the appeal of the concerned professional and who had handled the matter. As we appreciate the assessment order, it cannot be seen that before the assessing officer, no replies were filed to the specific

queries. Thus, we are not inclined to extend any benefit to the assessee and the reasons cited in the application are insufficient for any condonation. The application is dismissed. Consequently, the appeal stands dismissed barred by limitation.

3. In the result, the appeal is dismissed.

Order pronounced in the open court on 09/05/2024.

Sd/-
(G.S. PANNU)
VICE-PRESIDENT

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 09th May, 2024.
Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	03.06.2024
2.	Date on which the draft of order is placed before the Dictating Member:	04.06.2024
3.	Date on which the draft of order is placed before the other Member:	05.06.2024
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	05.06.2024
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	05.06.2024
6.	Date on which the final order received after having been signed/pronounced by the Members:	09.05.2024
7.	Date on which the final order is uploaded on the website of ITAT:	09.05.2024
8.	Date on which the file goes to the Bench Clerk	09.06.2024
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	