

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

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

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| ITA No. 1251/Bang/2024 |
| Assessment Year : 2015-16 |

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| M/s. Maverick Properties Pvt. Ltd., 78/1, New KR Road, Bangalore – 560 004. PAN: AAFCM0163Q | Vs. | The Assistant Commissioner of Income Tax, Circle – 4(1)(2), Bangalore. |
| APPELLANT | | RESPONDENT |

| | | |
|-------------|---|--|
| Assessee by | : | None |
| Revenue by | : | Shri Sreenivasa Karthik Devara, JCIT-DR |

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| Date of Hearing | : | 07-08-2024 |
| Date of Pronouncement | : | 14-08-2024 |

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order dated 14.06.2023 passed by NFAC, Delhi for A.Y. 2015-16.

2. None appeared before this *Tribunal* even after notice being served. However it is noted that on 06.08.2024, representative

one Ms. Anchal, CA had appeared however as on the date of which the appeal was heard, none appeared on behalf of assessee. As the issue raised by the assessee is small, we do not find it necessary to further adjourn the appeal. The vakalat of the representative of the assessee is on record dated 08/07/2024. The assessee has also filed an affidavit dated 28/06/2024 seeking condonation of delay in filing the present appeal before this *Tribunal*. In the affidavit, it is submitted that there was a delay of 320 days in filing the present appeal before this *Tribunal*. The affidavit of the assessee is scanned and reproduced herewith as under:

BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL, BANGALORE
BENCH, BANGALORE

ITA NO. 1251/ BANG/ 2024

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|------------------------------|-------------------------------------|
| APPELLANT | MAVERICK PROPERTIES PRIVATE LIMITED |
| ASSESSMENT YEAR | 2015 – 16 |
| APPEAL AGAINST THE ORDER U/s | 250 of the Income Tax Act, 1961 |

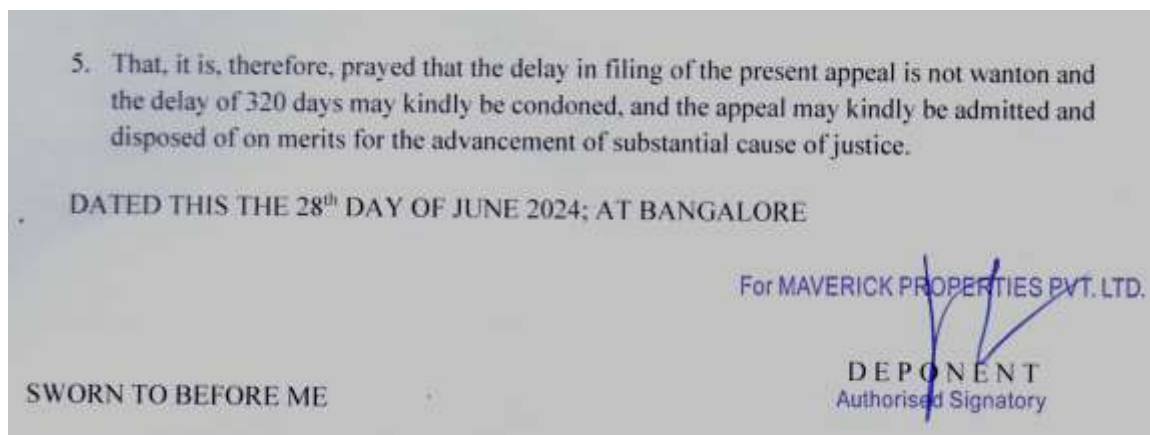
AFFIDAVIT

I, Pranav B Uday son of Mr. Uday B, aged about 34 years, residing at Bangalore, do hereby solemnly affirm and say on oath as under: -

1. That I am the authorized person for the company to handle all the legal matters of the Company. That being aggrieved by the order dated 14.06.2023 passed by the CIT(A) u/s 250 of the Income Tax Act ("**Impugned Order**"), we have preferred the captioned appeal before this Hon'ble Bench.
2. That the impugned order is ex facie illegal, arbitrary and erroneous and has been summarily dismissed by recording that no evidence was submitted by the Appellant disregarding the fact that all evidence were submitted by the Appellant before the Assessing Officer and CIT(A). Hence, the entire assessment proceedings and the appellate proceedings before CIT(A) were conducted in a prejudicial and determined manner.
3. It is submitted that the e-mail mentioned in Form 35 for filing of appeal before CIT(A) is that of abmkoffice@gmail.com and muralipnmr@gmail.com which e-mail account was being handled by Mr. Govardhan who was an employee in the Appellant's auditor's office. However, the concerned employee resigned on 29-02-2024 and since he had left the appointment, he failed to bring to the attention of my auditor, copy of the Impugned Order dated 14.06.2023 passed by the CIT(A). A copy of the resignation letter of Mr. Govardhan is annexed herewith.
4. It was only subsequently when the replacement had checked in the month of April -24 that it was brought to our attention that the impugned order was passed by the CIT(A). We immediately approached our advocate for filing of the present appeal and the same has been filed on 28th June 2024 with a delay of 320 days.

For MAVERICK PROPERTIES PVT. LTD.

Authorised Signatory



2.1. As per the affidavit, the email ID mentioned in Form 35 was of the employee of assessee's auditor who did not communicate the notices issued by the first appellate authority and also resigned in the month of February 2024. It is submitted that later on, upon appointing another person, the failure of non-appearance before the Ld.CIT(A) was brought to the notice of the assessee. In our view, the delay cannot be attributed to the assessee as assessee immediately upon becoming aware of the lapse, took necessary steps to file the present appeal before this *Tribunal*.

The Ld.DR did not have any contrary argument regarding the delay.

2.2. From the submissions of assessee reproduced in the impugned order, there does not arise any malafide intention on behalf of assessee for not filing the present appeal before this *Tribunal* in the period of limitation.

2.3. In our view, the assessee has made out reasonable cause for the delay caused in filing the appeal before this *Tribunal*. Nothing to establish any contrary intention was brought on record by the revenue before this *Tribunal*. In our opinion there is sufficient cause and reasonable cause to condone the delay of 320 days 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.

2.4. We place reliance on following observations by *Hon'ble Supreme Court* in case of *Collector Land Acquisition Vs. Mst. Katiji & Ors.*, reported in (1987) 167 ITR 471 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.”

2.5. Considering the submissions by both sides and respectfully following the observation by *Hon’ble Supreme Court*, we find it fit to condone the delay caused in filing the present appeals as it is not attributable to the assessee.

In any event, though the procedural law pertaining to the limitation has been drafted to construe it strictly, the fact remains that, considering such technicalities will not advance the cause of justice.

Accordingly, we condone the delay in filing the present appeals before this Tribunal.

3. At the outset, it is noted that, no notice of hearing was received by the assessee, though various notices were generated and alleged to be issued by the Ld.CIT(A)/NFAC as per the impugned order. It is submitted that, about 9 notices are said to be issued which is during the covid period and subsequently 4 notices are said to be issued to the assessee. It is further noted that the Ld.CIT(A) called for remand report from the assessing officer does not appear to be served upon the assessee as there is no mention regarding the same. We note that based on the remand report, the Ld.CIT(A) decided the issues without carrying out any verification.

3.1. The Ld.DR objected for the remand of the appeal however we do not find any basis for such objections.

4. It is noted that the assessee had requested for the copy of the remand report which appears to be not served upon the assessee and the Ld.DR also do not have any documents to prove the service of the remand report.

4.1. It is directed that the Ld.CIT(A) shall provide the copy of the remand report to the assessee and the assessee shall file all necessary documents in support of its claim and rejoinder to the remand report. The Ld.CIT(A) shall consider the issues on merits in accordance with law. Needless to say that proper opportunity of being heard must be granted to assessee.

Accordingly, the grounds raised by the assessee stands partly allowed for statistical purposes.

In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced in the open court on 14th August, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 14th August, 2024.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore