

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

Before Shri Manjunatha, G. Accountant Member and
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.555/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Century Fibres Plates (P) Ltd, Secunderabad PAN:AAACC7842B (Appellant)	Vs.	Dy. CIT Circle 1(1) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri E., S. Ranganath, CA	
राजस्व द्वारा / Revenue by:	Smt., TH Vijaya Lakshmi, CIT (DR)	
सुनवाई की तारीख / Date of hearing:	14/08/2024	
घोषणा की तारीख / Pronouncement:	14/08/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 30/03/2024 of the learned CIT (A)-/ADDL/JCIT (A)-Kolkata, relating to A.Y.2017-18.

2. The brief facts of the case are that the appellant company is engaged in the business of manufacturing and marketing of Coir/PU Foam Mattresses under the brand name of "Century Mattresses". The assessee has filed its return of income

for the A.Y 2017-18 on 25.10.2017 declaring total income of Rs.7,00,74,570/-. The return of income filed by the assessee has been processed u/s 143(1) of the I.T. Act, 1961 and intimation dated 16.03.2019 was issued and determined the total income of the assessee at Rs.8,84,58,860/- by making certain adjustments. The assessee has filed appeal against the assessment order passed by the Assessing Officer u/s 143(1) of the Act on 15.2.2014 with a delay of 1767days. Before the learned CIT (A), the appellant explained the reasons for not filing the appeal on or before the due date prescribed under the Act, and as per assessee immediately after receipt of order from the Assessing Officer, the appellant has sent the order to his Auditor Shri G. Prasad and during that time, the Auditor was not keeping good health and finally he expired on 16.06.2020. Thereafter, the appellant came to know that the appeal was not filed against the assessment order passed by the Assessing Officer only after receipt of letter dated 19.10.2023 from the I.T. Department showing outstanding demand for the impugned A.Y and thereafter took steps to file appeal which caused delay of 1767 days. Therefore, requested the learned CIT (A) to condone the delay. The learned CIT (A) after considering the relevant reasons given by the appellant for not filing the appeal in time and also by following the decision of the Hon'ble Supreme Court in the case of Devdutt vs. Union of India & Others (2008) 8 SCC 725 rejected the explanation furnished by the assessee and dismissed the appeal filed by the assessee unadmitted.

3. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

4. The learned Counsel for the assessee referring to the petition filed by the appellant before the learned CIT (A) submitted that, the appellant could not file appeal on or before the due date specified under the Act because of failure of his Auditor Shri G. Prasad who was In-charge of Audit till his death in the year 2020. Although the appellant has sent the order passed by the Assessing Officer to his Auditor, but because of his ill health, he could not attend to the work and in the process the appellant also missed the attention to the tax matters. However, immediately after receipt of letter dated 19.10.2023 from the Department, the appellant took steps to file appeal which caused delay of 1767 days. The delay in filing of the appeal is neither intentional nor for wanton of any undue benefit, but purely beyond the control of the assessee. Therefore, the delay in filing of the appeal before the learned CIT (A) should be condoned and the appeal may be set aside to the file of the learned CIT (A) to decide the issue on merits.

5. The learned DR, on the other hand, supporting the orders of the learned CIT (A) submitted that there is inordinate delay of 1767 days in filing of the appeal before the learned CIT (A) and the reasons given by the appellant for not filing of the appeal is reasonable and bonafide. Although the appellant claims to have

sent orders to his Auditor who failed to file appeal, but no evidence has been filed to justify his argument. Therefore, there is no error in the reasons given by the learned CIT (A) in dismissing the appeal filed by the assessee and the order of the learned CIT (A) should be upheld.

6. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. Admittedly, the appellant has filed appeal on 15.02.2024 after a delay of 1767 days before the learned CIT (A). We have carefully considered the reasons given by the assessee for not filing the appeal on or before the prescribed date. In our considered view, the appellant being a company must be vigilant and take necessary steps to attend its tax matters with utmost care. Further, there is a well-known dictum of law “Vigilantibus Non Dormientibus Jura Subveniunt”, which means that the law assists only those who are vigilant and not those who are careless of their right. The appellant was careless in filing appeal. Although the appellant claims that it has sent order to the Auditor immediately after receipt from the Assessing Officer and the Auditor because of his ill health could not file appeal, but had the appellant is vigilant, it would have pursued its case honestly with other professionals or with some other CA and get the appeal filed in time. In the present case, admittedly, the assessment order was passed in the year 2019 and the appeal was filed in the year 2024. The delay is almost more than 5 years. The appellant

claims that it has forwarded the assessment order copy to his Auditor in the year 2019 itself. Further, the appellant claims that his Auditor was expired on 16.06.2020. Assuming for a moment the argument of the assessee is correct, that because of his Auditor's ill health, the appeal could not be filed until June, 2020 but even after exclusion of period up to June, 2020, still there is a delay of more than 3 years and the same is not explained by the assessee with bonafide reasons. The appellant being a company having noticed that the person who is handling its tax matters was expired on 16.06.2020 could have given little attention to its pending litigation and inquired about the status of appeal to be filed before the learned CIT (A) against the assessment order. The assessee could not explain why even after the demise of his Auditor in the year 2020, it could not look into the pending tax matters with him. From the reasons given by the assessee, it seems that the assessee is shifting the blame to a person who is no more, without there being any supporting evidences to justify the case for delay in filing of the appeal. Therefore, in our considered view, the reasons given by the appellant seems to be not convincing and further does not come under reasonable cause. Therefore, we are of the considered view that there is no error in the reasons given by the learned CIT (A) to dismiss the appeal filed by the assessee unadmitted and his said findings is further supported by the decision of the Hon'ble Madras High Court in the case of Ajmer Sheriff and Co. vs. Income Tax Officer (2015) 61 Taxmann.com 301 (Mad.). Thus, we are inclined to

uphold the finding of the learned CIT (A) and dismiss the appeal filed by the assessee.

7. In the result, appeal filed by the assessee is dismissed.

Order pronounced in the Open Court at the time of hearing itself, i.e. on 14th August, 2024.

Sd/-

Sd/-

(K. NARASIMHA CHARY) JUDICIAL MEMBER	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 14th August, 2024.

Vinodan/sps

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3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order