

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, PUNE**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA No.788/PUN/2024

निर्धारण वर्ष / Assessment Year: 2018-19

Wirtgen India Private Limited, Gat No.301/302, Bhandgaon Khor Road, Pune 412 241 Maharashtra PAN : AAACW2816R	बनाम / V/s.	DCIT, Circle-12, Pune
.....अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

Assessee by : Shri Kishor B. Phadke
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 03.09.2024

घोषणा की तारीख / Date of Pronouncement : 04.09.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the appellant directed against the order of National Faceless Appeal Centre (NFAC), Delhi, dated 18.02.2024 passed u/s 250 of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’) for the assessment year 2018-19.

2. Briefly, the facts of the case are that the appellant is a company engaged in the business of Manufacturing, Trading and Marketing of various of Road Construction Machinery etc. The appellant filed the Return of Income for the A.Y. 2018-19 on 30.11.2018 declaring total

income of Rs.50,13,05,920/-. Return was processed u/s.143(1) vide intimation dated 06.11.2019 at a total income of Rs.50,25,77,654/- making adjustment by disallowance of the Employees' contribution to PF/ESI amounting to Rs.12,71,735/-. Thereafter, the case was selected for Complete Scrutiny for verification of (i) claim of any other amount allowable as deduction in Schedule BP; (2) Default in TDS & Disallowance for such default; (3) Duty drawback, (4) ICDS compliance and Adjustment; and (5) Sales Turnover/Receipts. In response to notice u/s.142(1), the appellant furnished the details called for along with the computation of income and other information. On verification of the issues on the basis of submissions made by the appellant, the assessment was completed by the Assessing Officer vide order dated 10.03.2021 passed u/s.143(3) r.w.s.143(3A) & 143(3B) confirming the adjustment so made u/s.143(1) of the Act.

3. Being aggrieved by the above assessment, the appellant filed an appeal before the NFAC with a delay of 132 days on 19.08.2021. The NFAC had dismissed the appeal of the appellant without condoning delay, placing reliance on various judgments.

4. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

5. We heard the rival submissions and perused the material on record. Admittedly, in the present case, the assessment order u/s.143(3) r.w.s.143(3A) & 143(3B) was passed on 10.03.2021. The appellant filed the appeal before the NFAC on 19.08.2021, with a delay of 132 days. The NFAC had dismissed the appeal without condoning the delay by stating that the appellant failed to explain the reason or the delay, appellant is guilty of laches or negligence and does not take appropriate steps to pursue the remedy till about 132

days and thus does not take appropriate action in filing the appeal within the prescribed limit.

6. On careful circumspection of the above facts and circumstances, in our considered opinion, the NFAC ought to have condoned the delay as the period from the date of passing the order by the AO, i.e. 10.03.2021 till 19.08.2021 is covered by the pandemic Covid-19 prevailed all over the country. Therefore, the said delay cannot be reckoned for the purpose of computing the limitation period by virtue of the judgment of the Hon'ble Supreme Court in Cognizance for Extension of Limitation, In re 438 ITR 296 (SC) read with judgment in Cognizance for Extension of Limitation, In re 432 ITR 206 (SC) dated 08-03-2021 and 421 ITR 314. We therefore direct the NFAC to condone the delay and dispose of the appeal on merits.

7. In the light of above and the interest of justice, we deem it appropriate to remit the matter to the file of NFAC for adjudication of the issue afresh on merits after giving due opportunity of hearing to the appellant.

8. In the result, the appeal filed by the appellant is partly allowed for statistical purposes.

Order pronounced in the open court on 04th September, 2024.

Sd/-
S.S. GODARA
JUDICIAL MEMBER

Sd/-
INTURI RAMA RAO
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 04th September, 2024

Satish

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The concerned Pr.CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /
DR 'B', ITAT, Pune;
5. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

//सत्यापित प्रति// True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune