

आयकर अपीलिय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.597/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2018-19)

Madhucon Granites Limited, Khammam. PAN : AABCM3717G.	Vs.	Dy. Commissioner of Income Tax, Circle - 13(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri P. Murali Mohan Rao, C.A.	
राजस्व द्वारा / Revenue by::	Shri D. Praveen, Sr.AR	
सुनवाई की तारीख / Date of hearing:	09.09.2024	
घोषणा की तारीख / Pronouncement:	11.09.2024	

आदेश / ORDER

PER SHRI MADHUSUDAN SAWDIA, A.M:

This appeal filed by Madhucon Granites Limited ("the assessee") feeling aggrieved by the order dated 26.04.2024 of the learned ADDL/JCIT(A)-2, Jaipur ("Ld. CIT(A)") relating to A.Y. 2018-19.

2. At the outset, Ld.AR submitted that there was delay in filing of appeal before the Ld.CIT(A) by 681 days. However, the Ld. First Appellate Authority without condoning the delay in filing the appeal, dismissed the appeal of the assessee.

3. Feeling aggrieved with the order of Ld.CIT(A) the assessee is now in appeal before us, contending that the Ld.CIT(A) erred in not condoning the delay in filing the appeal and dismissed the appeal without appreciating the merits of the case. The Ld. AR submitted that the due date of appeal to be filed before the Ld.CIT(A) was 30.10.2019, however, the appeal was filed on 09.09.2021. The main reason for delay in filing the delay was COVID-19 Pandemic. The same reasons were also brought to the notice of the Ld.CIT(A). However, without considering the reasons given for delay, the Ld.CIT(A) did not condone the delay. Hence the Ld.AR prayed before the Bench to condone the delay in filing the appeal before Ld.CIT(A) and to issue a direction to the Ld.CIT(A) to decide the appeal on merits.

4. Per contra, the Ld. DR placed heavy reliance on the order of the authorities below and opposed the grant of further opportunity to the assessee.

5. We have heard the rival contentions and also gone through the record in the light of the submissions made on either side. Looking to the Covid-19 pandemic, Hon'ble Supreme Court in the Suo Motu proceedings in the case of M.A.No. 21/2022 in M.A. No. 665/2021 in SMW(C) No.3 of 2020 by order dated 10/01/2022 held that in cases, where the limitation would have expired during the period between 15/03/2020 and 28/02/2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01/03/2022, and in the event of actual balance period of limitation remaining with effect from 01/03/2022 is greater

than 90 days, that longer period shall apply. The limitation period applicable to this appeal is mostly covered by the above decision and, therefore, this appeal deserve to be heard on merits by condoning the delay. Even if some period is not covered by the above decision, considering the principle of natural justice, the highest that would happen by allowing an opportunity to the assessee is that a cause would be decided on merits. With this view of the matter, we are of the view that fresh opportunity could be given to the assessee. Accordingly, we condone the delay, set aside the impugned order and restore the issue to the file of Ld.CIT(A) to pass a fresh order on merits. Needless to say that the Ld.CIT(A) will afford an opportunity of hearing to the assessee before passing such order. The grounds of appeals are answered accordingly.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Open Court on 11th September, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad,
Dated 11th September, 2024.
*** TYNM, Sr.P.S.**

Copy of the Order forwarded to :

1. Madhucon Granties Limited,
C/o. P. Murali & Co., Chartered Accountants,
6-3-655/2/3, Somajiguda, Hyderabad.
Telangana – 500082.
2. DCIT, Circle 13-(1), Hyderabad.
3. Pr. CIT, Hyderabad.

4. DR, ITAT, Hyderabad.
5. Guard file.