

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'A': NEW DELHI)**

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No:- 2154/Del/2024
(Assessment Year- 2018-19)**

Bonlon Industries Limited, 7A/39, 12 First Floor, WEA, Channa Market, Karol Bagh, New Delhi-110005.	Vs.	DCIT, Circle 4(2), C.R. Building, I.P. Estate, New Delhi-110002.
PAN No: AAACB6473H		
APPELLANT		RESPONDENT

Assessee by : Shri Ashok Khandelwal, CA
Revenue by : Shri Kanv Bali, Sr. DR

Date of Hearing : 18.09.2024
Date of Pronouncement : 15.10.2024

ORDER

PER SUDHIR PAREEK, JM

This appeal is preferred by the Assessee against the order dated 29.04.2024 passed by the National Faceless Appeal Centre (NFAC) / Learned Commissioner of Income Tax (Appeal) (hereinafter

referred to as 'Ld. CIT(A)'/, Delhi for the Assessment Year ('AY') 2018-19.

1.1 The assessee has raised the following grounds of appeal:

"1. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in holding that there was a delay in filing the appeal for 180 days and not condoning the same, ignoring the order of Hon'ble Delhi High Court in the Writ Petition No. (C) 15617/2023 & C.M. APPL. 62574-62575/2023 dated 05.12.2023, wherein it was clarified that if the appeal is filed before the Commissioner within Two weeks, the same shall not be dismissed on the ground of limitation. This order was brought to the notice of the CIT (A) in Para 7 of the statement of facts filed with the appeal.

2. That the appeal against the assessment order was filed on 13.12.2023 i.e. within two weeks from the order of the Hon'ble Delhi Court dated 05.12.2023 and as such should not have been dismissed on the ground of limitation.

3. That in the peculiar circumstances of the case, keeping in the view of the order of the Hon'ble Delhi High Court dated 05.12.2023, the CIT(A) may be directed to hear the appeal on merits and dispose off in accordance with law."

2. At the outset, the Ld. Counsel for the assessee submitted that the Ld. CIT(A) dismissed the assessee's appeal by stated that the *"since the appeal is being dismissed on account of being filed beyond the period prescribed under the Act, therefore, I am not expressing any opinion on merit of the case"*. He also submitted that the Ld. CIT(A) erred in holding that there was a delay in filing the appeal for 180 days and not condoning the same. The Ld. CIT(A) ignored the

order of the Hon'ble Delhi High Court in Writ Petition No. (C) 15617/2023 & C.M. APPL. 62574-62574/2023 dated 05.12.2023, wherein it was clarified that if the appeal was filed before the Commissioner within two weeks, the same shall not be dismissed on the grounds of limitation. The relevant part of the order of the Hon'ble Delhi High Court read as under:

"1. After some arguments, learned counsel for the Petitioner wishes to withdraw the present writ petition with liberty to file an appeal in accordance with law.

2. However, to facilitate filing of the appeal, it is clarified that in the event the appeal is filed before the Commissioner within two weeks from today, the same shall not be dismissed on the ground of limitation.

3. With the aforesaid liberty, the present writ petition along with application stand dismissed. However, it is also clarified that this Court has not commented on the merits of the controversy. The rights and contentions of all the parties are left open."

3. On the other hand, Ld. Sr. DR. relied upon the orders of the authorities below.

4. We have heard the rival contention and perused the material available on record. It is evident from the facts that the Hon'ble Delhi High Court in its order dated 05.12.2023, specifically directed that if the appeal was filed before the Commissioner within two weeks; it shall not be dismissed on the ground of limitation. The

appellant has submitted that the appeal was filed on 13.12.2023 within the stipulated period. It is quite strange to observe that the Ld. CIT(A) ignored the direction given by Hon'ble jurisdictional High Court and decided the appeal on the ground of limitation only and specifically denied to dispose off the appeal on its merit. The Ld. CIT(A) was bound by law to comply with the direction given by the Hon'ble jurisdictional High Court, but not only been ignored the same, but also did not even mentioned in the impugned order. Thus, the action of the Ld. CIT(A) in dismissing the appeal on the ground of delay is not sustainable.

5. In the light of the order of the Hon'ble Delhi High Court and in the entire existing facts and circumstances of the case, we remitted back the matter to the Ld. CIT(A) with the direction to decide the matter on merits and pass order in accordance with law after giving the appellant proper and effective opportunity of being heard. Consequently, matter is remitting back to the Ld. CIT(A) with the direction as mentioned above.

6. Consequently, this appeal is allowed as indicated above for statistical purpose.

Order pronounced in the Open Court on 15.10.2024

Sd/-
(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

Dated: 15/10/2024.
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	9.10.24 (direct)
Date on which the typed draft is placed before the dictating Member	9/10/24
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	