



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.407/CTK/2024**  
Assessment Year : 2013-14

M/s. Suryansh Hotels & Resorts pvt Ltd., At : N-5,274, Nayhapalio, IRC Village, Bhubaneswar	Vs.	Income Tax Officer, Ward-1(4), Bhubaneswar
PAN/GIR No.AAKCS 1675 A		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri P.K.Mishra, Adv  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 23/10/2024**  
**Date of Pronouncement : 23/10/2024**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 29.8.2024 in Appeal No.NFAC/2012-13/10169009 for the assessment year 2013-14.

2. Shri P.K.Mishra, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. It was submitted by Id AR that the Id CIT(A) has dismissed the appeal of the assessee on account of delay. It was the submission that the Id CIT(A) has taken the delay of 2339 days. Ld AR has filed written submission as follows:

**BEFORE THE INCOME TAX APPELLATE TRIBUNAL, CUTTACK BENCH,  
CUTTACK**

**I.T.A.NO.407/CTK/2024**  
**(ASSESSMENT YEAR: 2013-14)**

**M/S SURYANSH HOTELS & RESORTS PVT. LTD.,  
AT: N-5,274, NAYAPALI  
IRC VILLAGE, BHUBANESWAR  
DIST: KHORDHA, 751015.  
PAN: AAKCS1675A.**

**. . . APPELLANT**

**- VRS -**

**INCOME TAX OFFICER WARD-1(4)  
BHUBANESWAR.**

**. . . RESPONDENT**

**SUBMISSIONS:**

1. That, in the Appeal Memo, it was explained by the Appellant Company that, since the properties of the Appellant Company were seized and put to auction sale from 22.01.2013 by the UCO Bank, Ashok Nagar, Unit-II Branch, Bhubaneswar and since the UCO Bank has taken possession of all its properties including registered office u/s.13(2) and u/s.13(4) of the SERFAECI Act, 2002, its head office was closed and all its directors, were out of station in arranging funds to repay the loan and to save its properties. This process was continued till 2019, finally the bank issued sale certificate on 31.08.2019. Since, there were no head office and all its directors were out of station for arrangements of funds, they were not aware about this assessment proceeding and also the assessment order was not served on them.
2. That, only when, the Directors have received a telephonic call on 02.12.2020 from the Assessing Officer for recovery of demand, they came to know about passing of the assessment order on 28.03.2016. Since, assessment order was not served either on the Company or on

the Directors, they immediately applied for certified copy of such order. Even though, the Director received the certified copy of the order on 07.12.2020 and was in process of filing of appeal, on 09.12.2020, he suffered from Covid-19 (+<sup>ve</sup> DM-2-HTN) and was hospitalised in Nilachal Covid Hospital, even though, he was discharged from hospital on 26.12.2020, but suffered from post corona side effect i.e. he Respiratory problems and blood related problems and were under frequent treatment, which continued till 10.09.2022, thereafter, he started recovery. On 17.09.2022, when he was able to walk and talk, he contacted his Counsel and requested him to take necessary action on this order. On his request, without making any further delay, the appeal was prepared and uploaded on the same day i.e. on 17.09.2022.

That, it may be respectfully submitted here that, since he was affected twice in Corona and was facing respiratory problems, remained isolated and since, there was problem in RBC and WBC in his blood, he was under precaution of isolation. It may be respectfully submitted here that, even though, it was explained before the learned CIT(A) in Form No.35, but the learned CIT(A) did not accept it and held that, there was no reasonable cause for delay in filing of appeal, which is not correct.

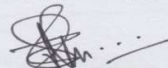
That, in the present case, the actual delay is of 201 days only and not of 2334 days, because of the following reasons;

- (i) Assessee received certified copy of assessment order on 07.12.2020 i.e. during the Corona period.
- (ii) As per the Hon'ble Supreme Court's judgment, the limitation was extended up to 28.02.2022.
- (iii) The actual delay in filing of appeal is from 01.03.2022 to 17.09.2022 i.e. of 201 days only.

5. That, since there is a sufficient reasonable cause for delay in filing of this appeal, the Appellant Company most respectfully prays before this Hon'ble Tribunal to condone the delay and to hear the appeal on merit in the interest of justice.

**PLACE: CUTTACK**  
**DATE: 23-10-2024**

**BY THE APPELLANT THROUGH**

  
**ADVOCATE**  
**(P.K. MISHRA)**

4. It was the submission that the assessee was under liquidation and the property of the assessee was also sold under SERFAECI Act. Ld AR has placed before us the copy of the sale certificate issued by the UCO Bank dated 31.8.2019. It was the submission that as the assessee was under substantial financial distress, the assessee had not cooperated even in the assessment proceedings and assessment order was passed exparte on 28.3.2016. It was the submission that the said assessment order was not served on the assessee insofar as the property of the assessee was under seizure by the respective banks. It was the submission that the certified copy of the assessment order had been obtained on 7.12.2020. It was further submitted that after the receipt of the certified copy of the order, which is evident from the fact that in the appeal filed, what has been filed is the certified copy of the assessment order. It was the submission that the Director of the assessee company was suffering from COVID and without considering even that as per the decision of the Hon'ble Supreme Court in respect of limitation, which was extended upto 28.2.2022, the appeal was

filed actually on 17.9.2022 Thus there is delay of 201 days. It was the submission that the delay may be condoned and the issues be restored to the file of the Assessing Officer for readjudication. Ld AR undertakes at the Bar that the assessee will cooperate in the set aside proceedings.

5. In reply, Id Sr DR vehemently supported the order of the Assessing Officer. It was the submission that if at all, the issues requires to be restored, then same should be restored to the file of Id CIT(A) for reconsidering the condonation of delay. It was the submission that the assessee should be careful of its statutory commitments.

6. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that the assessee has not been served the assessment order and it is the certified copy, which is served on the assessee. If the delay in filing of the appeal is considered from the date of service of the certified copy and the limitation as suspended by the Hon'ble Supreme Court is considered, the delay is 201 days. The assessee has also given substantial evidence to show that the assessee was under financial distress and Director of the assessee company was suffering from COVID. This being so, in the interest of justice, we condone the delay in filing the appeal before the Id CIT(A). As it is noticed that the assessee has not represented before the Assessing Officer, the issues in this appeal are restored to the file of the Assessing Officer for readjudication after granting the assessee adequate opportunity of being heard.

7. In the result, appeal of the assessee stands partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 23/10/2024.

SD/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

SD/-  
**(Manish Agarwal)**  
**ACCOUNTANT MEMBER**

Cuttack; Dated – 23/10/2024  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : M/s. Suryansh Hotels & Resorts pvt Ltd., At : N-5,274, Nayhapalio, IRC Village, Bhubaneswar
2. The respondent:Income Tax Officer, Ward-1(4), Bhubaneswar
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Bhubaneswar
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.Secretary  
ITAT, CUTTACK