

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.3347/M/2024
Assessment Year: 2014-15**

M/s. Mega Venture Developers Pvt. Ltd., 110, Vashani Chambers, 47, New Marine Lines, Mumbai, Maharashtra - 400 020 PAN: AAECM7883L	Vs.	Deputy Commissioner of Income Tax-Circle 5(2)(2), Room No.571, 5 th Floor, Aayakar Bhavan, Maharishi Karve Road, Mumbai Maharashtra - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Devendra Jain, Ld. A.R.
Revenue by : Shri Sunny Kachhwaha, Ld. Sr. D.R.

Date of Hearing : 08.10.2024
Date of Pronouncement : 04.12.2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 05.10.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2014-15.

2. At the outset, we observe that there is a delay of 206 days in filing the instant appeal, on which the Assessee has submitted that copy of the impugned order dated 05.10.2023 was uploaded on the e-filing portal but not served upon the Assessee in physical mode in spite of mentioning specifically "No" to the question in form No.35 i.e. "whether notice/communication may be sent on email".

Even otherwise though the Assessee has provided its primary and secondary email ID on the e-filing portal i.e. bhaves2706@gmail.com and pg9999@gmail.com, whereas all the notices for A.Y. 2014-15 were served on the imperialal@hotmail.com which remained to be checked. Somehow new accountant of the Assessee checked the e-portal in June 2024 qua status of appeal proceedings at e-filing portal and then only came to know about the impugned order. Thereafter, the Assessee immediately filed the instant appeal without any delay. The delay occurred is neither malafide nor intentional but bonafide because of the aforesaid reasons and therefore the delay in filing the instant appeal may be condoned. The Assessee in support of its claim for delay also filed the supporting affidavit duly sworn.

3. On the contrary the Ld. D.R. refuted the claim of the Assessee.

4. We have considered the reasons for the delay in filing the instant appeal. The reason given by the Assessee though prima-facie appears to be bonafide and unintentional but not convincing as the Assessee is a company and having competent staff to check the day to day work of the Assessee company and therefore the contention of the Assessee for condonation of delay is unconvincing and not liable to be accepted considering specifically the facts of the instant case that in spite of sending 4 notices the Assessee made no compliance before the Ld. Commissioner. However, considering the peculiar facts and circumstances

of the case, as the Assessee remained to be represented and also failed to file the relevant reply and documents before the Ld. Commissioner therefore in the constrained circumstances, the Ld. Commissioner though decided the issues involved on the basis of material available on record but not in right perspective of the issues involved, hence considering the peculiar facts and circumstances of the case, we are inclined to condone the delay, however, subject to deposit of Rs.10,000/- in the Revenue Department within 30 days from the receipt of this order. We clarify that the Assessee shall not be entitled for claiming any deduction or disallowance on this amount.

5. Coming to the merits of the case though the Assessee by filing the order 31.03.2017 passed by the co-ordinate Bench of the Tribunal in Assessee's own case for the A.Y. 2011-12 in ITA No.2381/M/2015 wherein one of the issues as involved in the instant appeal has been addressed by the Hon'ble Co-ordinate Bench of the Tribunal, however, as we observe above that despite of sending various notices the Assessee made no compliance which resulted into passing the impugned order by the Ld. Commissioner as ex-parte but not in the right perspective of the issues involved, hence, for the just decision of the case and substantial justice, we are inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity to the Assessee. We clarify that in case of subsequent default the Assessee shall not be entitled for any leniency.

6. We further observe that notice sent to the Assessee on earlier occasion for the date of hearing on 19.08.2024 has been returned back by the postal authority with the remarks "left", meaning thereby the Assessee is not situated at the address mentioned in form No.36 and therefore the Assessee is also directed to provide the complete and exact address as well as latest email address and telephone number to the Ld. Commissioner as well as before the Tribunal for sending any notice/order.

7. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 04.12.2024.

**Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.