

आयकर अपीलीय अधिकरण, कोलकाता पीठ “ए”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. No. 1436/Kol/2024
Assessment Year: 2021-22

DCIT, CC-1(4), Kolkata	Vs.	Shrimarc Mall LLP (PAN: ACKFS 3416 J)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	25.11.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	05.12.2024
For the assessee / निर्धारिती की ओर से	Shri Siddharth Agarwal, Advocate
For the revenue / राजस्व की ओर से	Shri Pradip Kumar Biswas, Addl. CIT

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is an appeal preferred by the revenue against the order of the Ld. Commissioner of Income Tax (Appeals)-20, Kolkata (hereinafter referred to as the “Ld. CIT(A)”) dated 22.03.2024 for the AY 2021-22.

2. As it appears from the record that the appeal has been filed after a delay of 37 days. For this the Department has filed condonation petition which is as follows:

Shrimarc Mall LLP
 PAN-ACKFS3416J
 A/Y. 2021-22
Condonation of Delay

1. The appellant/petitioner states that being aggrieved by and dissatisfied with the impugned order of the Ld. CIT(A)-20/N10195/2020-21 for the A/Y. 2021-22 in the case of Shrimarc Mall LLP., an appeal has been preferred before this Hon'ble ITAT, Kolkata under section 253 of the IT Act 1961.
2. The appellant/petitioner states that the impugned order passed by the Ld. CIT(A)-20, Kolkata on 22.03.2024 was received by the Office of the Pr. Commissioner of Income Tax Central-1, Kolkata on 22.03.2024. Your petition states that according to the Income Tax Department, the last date of filing the appeal expired on **21.05.2024**.
3. Your petitioner states that there are sufficient reasons/causes for condonation the delay in filing the Appeal under Section 253 of the Income Tax Act 1961 which are as follows:-
4. After receiving the said impugned order and upon completion of the due departmental procedure, the Income Tax Office (Tech.), Pr. CIT Central-1, Kolkata dated 03.04.2024 requested the Dy. Commissioner of Income Tax Central Circle-1(4), Kolkata to prepare Appeal Scrutiny Report (ASR) and to send the same to the Pr. Commissioner of Income Tax, Central-1, Kolkata alongwith the Assessment records in order to examine the issue of filing appeal under Section 253 of the IT Act 1961 and this office received the same on 03.04.2024 and ASR was submitted by this office on 06.06.2024.
5. The ASR is submitted by the Office of the Addl. Commissioner of Income Tax Central, Range-1, Kolkata on 16.06.2024 for onward transmission to the office of the Pr. CIT Central-1, Kolkata for his kind perusal and taking necessary action.
6. The office of the Pr. Commissioner of Income Tax, Central-1, Kolkata on 26.06.2024 vide letter No. Pr. CIT@-1/Tech/Kol./ASR/Tech./2024-25/2372 dated 26.06.2024 accorded his kind approval for filing 2nd appeal under section 253 before the Hon'ble ITAT, Kolkata. The details procedure are furnished below:-

1.	Calling for ASR by Ld. Pr. CIT Central-1, Kolkata office letter dated	03.04.2024
2.	Letter received by the AO	03.04.2024
3.	ASR furnished by AO before the Addl. CIT Central Range-1, Kolkata	06.06.2024
4.	Addl. CIT furnished to the O/o. Pr. CIT Central-1, Kolkata	16.06.2024
8.	Pr. CIT Central-1, Kolkata approval received	26.06.2024
7. In the aforesaid facts and circumstances the appellant/petition most humbly submits that due to unavoidable situation and circumstances, which were beyond the control of your petitioner, there is a delay in filing the instant

appeal. It is humbly requested that such delay is unintentional and such delay may kindly be condoned by the Hon'ble ITAT, Kolkata and the instant appeal may be heard and the appeal be registered.

Your petition states that the last date to file this appeal was 22.05.2024 and as such, there is a total delay of 34 days in filing the instant appeal.

This application is made bonafide and for the interest of justice.

Under the above facts and circumstances the appellant/petitioner most humbly prays that your Lordship may graciously be pleased to pass the following orders:-

Delay 34 days in preferring the instant appeal be condoned and the aforesaid appeal be registered and restored to file and be heard on merit.

Such other or further order or orders and/or direction or directions be given as this Hon'ble ITAT may be deem fit and proper.

And for the act of kindness your petition as in duty bound shall ever pray.





[Praveen Das Chowdhury]
Dy. Commissioner of Income Tax
Central Circle-1(4), Kolkata.

प्रवीण दास चौधरी
PRAVEEN DAS CHOWDHURY
उप आयकर आयुक्त, केन्द्रीय सर्कल-1(4), कोलकाता
D.C.I.T., Central Circle-1(4), Kolkata

3. The Ld. Counsel on behalf of the assessee did not raise any objection in condoning the delay. Keeping in view, the facts stated in the condonation petition, delay is hereby condoned.

4. At the outset, the Ld. Counsel for the assessee submitted that the CBDT has issued a Circular No. 9/2024 dated 17.09.2024, whereby the monetary limits for filing of appeal by the Department before Income Tax Appellate Tribunal and High Courts and SLP before Supreme Court have been increased as a measure for reducing

Litigation. The revised monetary limits laid down in para-2 of this Circular are as follows:

1. Before Appellate Tribunal	Rs. 60,00,000/-
2. Before High Court	Rs. 2,00,00,000/-
3. Before Supreme Court	Rs. 5,00,00,000/-

5. In the present case, the tax effect by the revenue is less than Rs.60,00,000/-. We note that this appeal had been filed by the revenue on 28.06.2024 and since the tax effect is within the monetary limit for filing appeals before Tribunal, in view of the Circular of CBDT (supra) at the first place, Revenue should not have preferred this appeal. In view of the above, we hold that the appeal filed by the Department, against the impugned order of the Ld. CIT(A), is contrary to the policy decision of the Department and as such the appeal filed by the Department is dismissed *in limine*.

6. As a matter of caution, we observe that if the Revenue finds at a later point of time that the tax effect in the appeal is more than Rs.60 lakhs or despite low tax effect, the appeal of the revenue is maintainable, the revenue is at liberty to move this Tribunal for recalling of this order.

In the result, the appeal of the revenue is dismissed.

Order is pronounced in the open court on 5th December, 2024

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)
Judicial Member/न्यायिक सदस्य

Dated: 5th December, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- DCIT, CC-1(4), Kolkata
2. Respondent – Shrimarc Mall LLP, 686, Shrachi Tower, Annandpur E. M. Bypass, Kolkata-700107.
3. Ld. CIT(A)-20, Kolkata
4. Ld. Pr. CIT- Central-1, Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata