

**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. 893/Kol/2024**  
**Assessment Year: 2017-18**

DCIT, CC-1(3), Kolkata	Vs.	S. M. Niryat Pvt. Ltd.  (PAN: AAJCS 7460 E)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	02.12.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	05.12.2024
For the assessee / निर्धारिती की ओर से	Shri Tanmoy Kar, ACA
For the revenue / राजस्व की ओर से	Shri Subhendu Datta, CITDR

**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 06.02.2024 for the AY 2017-18.

2. As it appears from the record that the appeal has been filed after a delay of 12 days. For this the Department has filed condonation petition which is as follows:



भारतसरकार/ GOVERNMENT OF INDIA

सहायक आयकर आयुक्त का कार्यालय /OFFICE OF THE DEPUTY COMMISSIONER OF INCOME TAX  
Central Circle -1(3), Kolkata, 3<sup>rd</sup> Floor, Aayakar Bhawan Poorva, 110, Shanti Pally, Kolkata-700107  
Tele-fax – (033) 24420169. Email kolkata.dcit.central1.3@incometax.gov.in

फा: संख्या:F.No. DCIT/CC-1(3)/Kol /Condonation/2024-25/ 29

दिनांक/Date: 18.04.2024

To  
 The Assistant Registrar,  
 Income-Tax Appellate Tribunal,  
 225C, A.J. C. Bose Road,  
Kolkata-700 020.

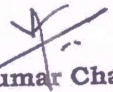
Sir,

Sub: Petition for condonation of delay for filing of appeal before the Hon'ble ITAT,  
 Kolkata in the case of S M Niryat Pvt. Ltd., PAN: AAJCS7460E for the A.Y.  
 2017-18-regarding.

Kindly refer to the above.

With due respect this is to inform you that S M Niryat Pvt. Ltd. is a flagship concern of SM Group. Appeal orders in the present case as well as in the case of other group concerns were received in the office of PCIT, Central-1, Kolkata on 06.02.2024. On 26.02.2024, Appeal Scrutiny Reports were called for from the office of the Principal Commissioner of Income-Tax, Central-1, Kolkata in all the cases of the group concerns including S M Niryat Pvt. Ltd. Utmost effort has been made to prepare all the desired ASRs of this group concerns including the present case during the crucial period of time-barring assessment, which was finally submitted on 08/03/2024 in the office of Additional Commissioner of Income Tax, Range-1, Central, Kolkata. On 10/04/2024 Ld. PCIT, Central-1, Kolkata has directed to file second appeal before ITAT. Therefore, your honour is requested to kindly condone 12(twelve) days delay for filing appeal.

Yours faithfully,

  
 ( ~~Swapan Kumar Chakraborty~~ )  
 Deputy Commissioner of Income-Tax  
Central circle-1(3), 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 24.04.2024 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 5<sup>th</sup> December, 2024

Sd/-

Sd/-

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

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

Dated: 5<sup>th</sup> December, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- DCIT, CC-1(3), Kolkata
2. Respondent – S. M. Niryat Pvt. Ltd., 402, Sagar Trade Cube, 104, S P Mukherjee Road, Kolkata-700026
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