

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member
And Shri Pradip Kumar Choubey, Judicial Member**

**I.T.A. No.2288/Kol/2024
Assessment Year: 2020-21**

**Vishwa Industrial Company Ltd.....Appellant
62A, Hazra Road, Ballygunge,
Kolkata – 700019.
[PAN:AABCV0296K]**

vs.

DCIT, Circle-1(1), Kolkata.....Respondent

Appearances by:

Shri N. S. Saini, AR, appeared on behalf of the appellant.

Shri P. N. Barnwal, CIT, DR, appeared on behalf of the Respondent.

Date of concluding the hearing :December 12, 2024

Date of pronouncing the order :December 18, 2024

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal filed by the assessee for the assessment year 2020-21 against the order dated 28.12.2023 of the Commissioner of Income Tax (Appeals)-8, Mumbai [hereinafter referred to as 'CIT(A)'] u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. At the outset, we find that there is a delay of 262 days in filing the appeal, for which the assessee has filed condonation petition along with affidavit of Shri Avinash Lohia, son of Harsh Lohia dated 13.11.2024, wherein, the delay of 262 days in filing the appeal before the Tribunal was explained. After perusing the said affidavit, we find that Sri Santu Sharma, the accountant of the company, resigned from job on 11.03.2024 without informing the management about the dismissal of the appeal on 28.12.2023. It is only after receiving a communication from CPC Demand Facilitation Centre of the Income Tax Department on

23.10.2024 regarding the outstanding demand of Rs.9,41,720/-, the assessee came to know about the appellate order having been passed ex parte. Thereafter, the assessee took necessary steps to prepare and file the appeal which caused the delay of 262 days. The ld. AR vehemently submitted before us that the assessee was not benefited in any manner whatsoever by the delayed filing of the appeal. Therefore, the ld. AR prayed that the delay in filing the appeal may kindly be condoned and the appeal may be admitted for adjudication. After hearing both the sides and considering the contents of the affidavit, we condone the delay and admit the appeal for adjudication.

3. The brief facts of the case are that the assessee filed its return of income on 15.02.2021 declaring total income of Rs.34,93,310/- which was processed u/s 143(1) of the Act on 18.12.2021 determining total income of Rs.62,61,240/- by making a disallowance of Rs.24,05,614/- u/s 36(1)(va) of the Act for not depositing of PF/ESIC within due date as specified under the respective Acts.

4. After hearing the rival contentions and perusing the material on record, we note that Assessing Officer/CPC has not issued any notice to the assessee before making the addition and the ld. CIT(A) has not adjudicated the issue but simply dismissed the appeal of the assessee by applying CBDT Circular No.22/2015 and following the decision of Checkmate Services Pvt. Ltd. reported in (2022) 143 taxmann.com 178 (SC). We find that since the issue of validity of intimation passed section 143(1) of the Act by the Assessing Officer/CPC, Bengaluru which has not been adjudicated by the ld. CIT(A), therefore, we are inclined to restore this appeal to the file of the ld. CIT(A) for de novo adjudication of the matter in accordance with law and facts available on records after a reasonable opportunity to the assessee.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 18th December, 2024.

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Sd/-
[Rajesh Kumar]
Accountant Member

Dated: 18.12.2024.

RS

Copy of the order forwarded to:

1. Vishwa Industrial Company Ltd
2. DCIT, Circle-1(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches