

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR "SMC" BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA.No.219/NAG./2024 [E-APPEAL]
Assessment Year 2013-2014

Vidhi Minerals and Alloys Private Limited, 579, Tarasa Road, Kanahan, Parseoni, NAGPUR – 441 401 PAN AACCV4567G Maharashtra.	vs.	The ACIT, Circle-3, Aaykar Bhavan, Civil Lines, Telanghedi Road, NAGPUR – 440 001. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri K.P. Dewani, Advocate
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	27.01.2025
Date of Pronouncement :	29.01.2025

ORDER

PER V. DURGA RAO, J.M. :

This appeal has been filed by the assessee against the order dated 23.02.2024, of the learned Addl./JCIT(A), Udaipur, relating to assessment year 2013-2014.

2. Briefly stated facts of the case are that the assessee is engaged in manufacturing, trading, export import of minerals, ferro alloys and ores. It filed its return of income on 31.12.2013 declaring income of Rs.15,51,050/-. The case of the assessee company has

been selected for scrutiny under CASS. Therefore, the Assessing Officer issued statutory notices u/sec.143(2) and 142(1) of the Act and duly served upon the assessee. In response thereto, the Authorised Representative of the Assessee appeared before the Assessing Officer from time to time and filed all the requisite details i.e., copy of computation of income, copy of audit report, balance sheet, profit and loss account, details of major expenses, balance confirmation of sundry creditors and unsecured loan party, copy of service tax and TDS return working, details of payment made u/sec.43B and such other details during the course of assessment proceedings, which are placed on record. The Assessing Officer while completing the assessment noted that assessee company had incurred interest expenses of Rs.8,21,377/-, which, according to him, not allowable either u/sec.36(1)(iii) or u/sec.37 of the Act. Therefore, he called for explanation of the assessee vide order sheet entry dated 03.11.2015. In response to the said notice, the assessee company has furnished written submissions. However, the Assessing Officer was not satisfied with the explanation offered by the assessee company, disallowed the interest expenses of Rs.8,21,377/- and added the same to the returned income of the assessee i.e.,

Rs.15,51,050/- and computed the total income of the assessee company at Rs.23,72,430/- vide order dated 30.11.2015 passed u/sec.143(3) of the Act.

3. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the learned CIT(A) with a delay of 1146 days. Before the learned CIT(A), the assessee submitted that the it had forwarded documents for preparation of appeal to it's Authorised Representative and inadvertently, the said documents are misplaced and as such it could not be filed in-time. He submitted that the delay in submission of appeal is on account of mistake at the office of Counsel of Assessee and there is no negligence on the part of the assessee company. The assessee company also submitted that his Authorised Representative has filed affidavit too for condonation of delay before the learned CIT(A) by admitting the delay in filing of the appeal before the learned CIT(A) on oath. However, the learned CIT(A) has not satisfied with the explanation of the assessee company with respect to the delay in filing of the appeal and confirmed the order of the Assessing Officer.

4. Aggrieved by the order of the learned CIT(A), the assessee company carried the matter in appeal before the Tribunal.

5. During the course of hearing, the Learned Counsel for the Assessee submitted that the orders of the authorities below are not in accordance with law. The Assessing Officer without considering the explanation offered by the assessee made the impugned addition of Rs.8,21,377/- u/sec.36(1)(iii) of the Act which is unjustified. And on appeal before the learned CIT(A), the learned CIT(A) without appreciating the explanation of the assessee with regard to delay in filing of the appeal before him and without going into the merits of the case, dismissed the appeal of the assessee company as not maintainable on the ground of delay and thereby, the order of the learned CIT(A) is not in accordance with law as contemplated u/sec.250(6) of the Act. He accordingly submitted that one more opportunity may please be provided to the assessee company to substantiate it's case as it has got fair chances to succeed in it's appeal before the learned CIT(A) and prayed that one more opportunity may please be provided to the assessee company by remitting the matter in issue back to the learned CIT(A) for afresh adjudication by condoning the delay of 1146 days in filing the appeal before him.

6. The Learned DR on the other hand, relied on the orders of the lower authorities and strongly opposed for condonation of delay. He submitted that the explanation offered by the assessee company with regard to the delay in filing the appeal before the learned CIT(A) is an afterthought and therefore, the learned CIT(A) has rightly confirmed the disallowance made by the Assessing Officer and not condoned the delay. He accordingly submitted that that the order of the learned CIT(A) be confirmed.

7. I have heard the arguments of both the sides and perused the material on record. I find that the learned CIT(A) has dismissed the appeal of assessee company on the ground of delay of 1146 days in filing the appeal before him but had not decided the appeal on merits. The Learned Counsel for the Assessee has rightly pointed out that the learned CIT(A) has not decided the matter in issue on merits as contemplated u/sec.250(6) of the Act, according to which, the learned CIT(A) has to give reasons for decision and adjudication thereof. While dealing with condonation of delay matters, I note that it is the settled position of law by the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) wherein it has been held that when substantial justice and

technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. It has further been held that refusing to condone delay can result in a meritorious matter being thrown-out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties. In view of the above decision of Hon'ble Supreme Court in the case of Collector, Land Acquisition vs., MST Katiji (supra); considering the submission of the assessee company hereinabove and in the larger interest of justice, the assessee company is directed to file condonation application along with an affidavit afresh before the learned CIT(A) and the learned CIT(A) is directed to condone the delay and decide the appeal on merits as per fact and law. Needless to say, it is for the assessee company to plead and prove it's case before the learned CIT(A) by furnishing all the requisite documents as called for in consequential proceedings. I hold and direct accordingly.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 29.01.2025.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 29th January, 2025

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned
4.	The CIT, Nagpur concerned
5.	The D.R. ITAT, Nagpur SMC-Bench, Nagpur
6.	Guard File.

//By Order//

True Copy

Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.