

**IN THE INCOME TAX APPELLATE TRIBUNAL PATNA BENCH  
VIRTUAL HEARING AT KOLKATA**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**ITA No. 364/PAT/2024  
Assessment Year: 2014-15**

Ramakant Singh Erst Director- GMC Icecreams Pvt. Ltd. (Stricken off), Patna. 101, Lotus Apartment, New Patliputra Colony, Bihar- 800013. (PAN: AACCG2359P)	Vs	ITO, Ward-2(1), Patna
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Appellant by : Shri Nishant Maitin, CA  
Respondent by : Shri Ashwani Kr. Singal, JCIT

Date of Hearing : 25.02.2025  
Date of Pronouncement : 25.02.2025

**ORDER**

**Per Bench :**

This is an appeal filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as “the Ld. CIT(A)”] vide order no. ITBA/NFAC/S/250/2023-24/1055070123(1) dated 11.08.2023 passed u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for AY 2014-15.

2. Shri Nishant Maitin, CA appeared on behalf of the assessee and Shri Ashwani Kr. Singal, JCIT appeared on behalf of the revenue.

3. It was submitted by the Ld. AR that there was a delay of 229 days in filing the appeal before the Tribunal. It was the submission that the assessee company GMC Ice creams Pvt. Ltd. (in short "GMC") has been struck off from the Registrar of Companies w.e.f. 14.07.2017 and was as such not functional and, therefore, notices that no details were known available to the assessee who was filed the appeal, who is the erstwhile director of the said company. It was the submission that due to the said cause the delay of 229 days may be condoned.

4. The Ld. Sr. DR vehemently opposed the condonation of delay.

5. We have heard the rival submissions. The assessee has produced before us the certificate of Registrar of Companies and Official Liquidator, Patna, Bihar, wherein it has been recorded that the Company GMC U51220BR1992PTC004763 has been struck off vide STK 7 dated 14.07.2017. Admittedly, the assessee company having been struck off the erstwhile director would not have noticed of the proceedings. This being so, we find that the reasons given in the condonation of delay petition is valid and consequently condone the delay and dispose of this appeal on merits.

6. It was submitted by the Ld. AR that notice u/s. 148 of the Act dated 31.03.2021 had been issued in respect of the assessment year 2014-15. It was the submission that notice u/s. 142(1) of the Act has also been issued on 20.07.2021. It was the submission that when the director of the assessee company came to know of the notice, he immediately intimated the AO that the Company has been struck off from the Registrar of Companies. It was the submission that even after that the Assessing Officer proceeded with the assessment on the ground that the PAN has not been extinguished. It was the submission that the Assessing Officer thus,

recognised that the erstwhile director had intimated that the Registrar of Companies has struck off the assessee company. It was the submission that the assessment order passed may be quashed in the interests of justice as the assessee company does not exist.

7. In reply, the Ld. Sr. DR vehemently supports the orders of the Assessing Officer and the Ld. CIT(A).

8. We have considered the rival submissions. Admittedly, the assessee company no more exists w.e.f. 14.07.2017 when the company itself is non-existent the service of the notices u/s. 148 and 142(1) of the Act much after the striking off the name of the assessee from the Registrar of Companies amounts to service of notice on a non-existent person. The erstwhile director of the assessee company has also intimated the non-existence company to the Assessing Officer. As the assessee no more exists with the striking off of its name from the Registrar of Companies any proceedings against such non-existent company is permissible under the Income Tax Act, 1961. Consequently, the orders of the Assessing Officer and the Ld. CIT(A) are quashed.

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

Order pronounced in the open court.

Sd/-  
(Sanjay Awasthi)  
Accountant Member

Sd/-  
(George Mathan)  
Judicial Member

***Dated: 25<sup>th</sup> February, 2025***

JD, Sr. P.S.

Copy to:

1. The Appellant: Ramakant Singh Erst Director- GMC Icecreams Pvt. Ltd. (Stricken off), Patna
2. The Respondent. ITO, Ward-2(1), Patna
3. CIT(A), NFAC, Delhi
4. Pr. CIT
5. DR, ITAT, Patna Bench, Patna
6. Guard file.

True Copy

By Order

Assistant Registrar  
ITAT, Patna