

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCH, 'A', CHANDIGARH

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT &
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 491/CHD/2024

निर्धारण वर्ष / Assessment Year : 2019-20

ACME Builders Private Limited, Group Housing No. 10, JLPL, Sector 91, Mohali Punjab	Vs. बनाम	The DCIT, Central Circle 1(1), Chandigarh
स्थायी लेखा सं./PAN No: AAICA9869Q		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

(Hybrid Hearing)

निर्धारिती की ओर से/Assessee by : Shri Tej Mohan Singh, Advocate,

राजस्व की ओर से/ Revenue by : Shri Rohit Sharma, CIT DR

सुनवाई की तारीख/Date of Hearing : 04.02.2025

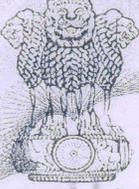
उद्घोषणा की तारीख/Date of Pronouncement : 24.02.2025

आदेश/Order

Per Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 19.02.2024 of the Id. Commissioner of Income Tax (Appeals)-3. Gurugram.

2. It is seen from the record that the Registry has pointed out a delay of 08 days in filing of the appeal. The Counsel for the Assessee submitted that an Affidavit for condonation of delay, which is reproduced as under:


सत्यमेव जयते

INDIA NON JUDICIAL
Chandigarh Administration

e-Stamp

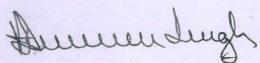
Certificate No. : IN-CH54264868767622X
Certificate Issued Date : 21-Jan-2025 03:33 PM
Certificate Issued By : chprelatu
Account Reference : NEWIMPACC (GV)/ chspicg07/ E-SAMPARK SEC-40/ CH-CH
Unique Doc. Reference : SUBIN-CHCHSPICG0704990121868950X
Purchased by : MANPREET SINGH
Description of Document : Article 4 Affidavit
Property Description : Not Applicable
Consideration Price (Rs.) : 0
(Zero)
First Party : ACME BUILDERS PVT LTD
Second Party : Not Applicable
Stamp Duty Paid By : ACME BUILDERS PVT LTD
Stamp Duty Amount(Rs.) : 50
(Fifty only)

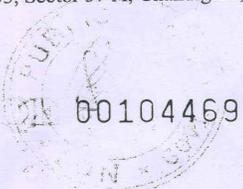


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AFFIDAVIT

I, Ashveen Singh, Director of M/s Acme Builders Private Limited, Group Housing No. 10, JLPL, Sector 91, Mohali, son of Mr. Balbir Singh, resident of House No. 455, Sector 37 A, Chandigarh, do hereby solemnly affirm and declare as under:

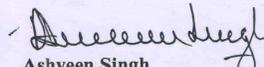
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- 1) That the appeal for Assessment Year 2019-20 was filed before the Hon'ble Income Tax Appellate Tribunal, Chandigarh on 25.04.2024 which is late by five days.
- 2) That originally all the tax matters including various appeals were handled and signed by Late Mr. Jogesh Kohli, Director of company. Mr. Jogesh Kohli was a kidney transplant patient and had burst his kidney. He had fallen acutely ill during the period these appeals had to be completed and submitted before the Hon'ble Tribunal and as such they could not be completed.
- 3) That Mr. Jogesh Kohli, Director of Company died on 03rd June 2024.
- 4) That the counsels brought the delay in filing of the said appeals to the notice of the undersigned and immediately the undersigned signed the appeal forms and deposited the requisite fee for the appeals.
- 5) That the delay in filing the appeal is not intentional but due to unfortunate circumstances which were beyond the control of the company and the management and hence the delay of five days may kindly be condoned.

for Acme Builders Private Limited

Place: Chandigarh
Date: 21.01.2025

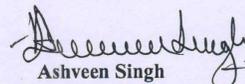

Ashveen Singh
Director / Deponent

VERIFICATION:

I, the above-named deponent, do hereby declare what is stated above is correct and true to the best of my knowledge and believe and nothing has been concealed therein.

for Acme Builders Private Limited

Place: Chandigarh
Date: 21.01.2025


Ashveen Singh
Director / Deponent



21 JAN 2025

3. We have considered the issue brought on record and gone through the contents of the affidavit for condonation of delay and we feel it appropriate to condone the delay because of the nature of issue discussed in the affidavit.

4. The ld. DR had no objection for condonation of delay.

5. The grounds of appeal taken by the Assessee are as under: -

- 1) *That the Hon'ble Commissioner of Income Tax (Appeals) has erred in passing an ex-parte order under section 201 r.w.s 250 of the Income Tax Act, 1961.*
- 2) *That on the facts and circumstances of the case the Hon'ble Commissioner of Income Tax (Appeals) has erred in upholding a demand of Rs. 1,09,812/- under Section 201 and interest of Rs. 6,588/- under section 201(1A) of the Income Tax Act, 1961.*
- 3) *That on the facts and circumstances of the case the order of the Hon'ble Commissioner of Income Tax (Appeals) has erred in upholding a demand of Rs. 3,685/- on non deduction of TDS on payment of Rs. 1,84,237/- to M/s Black Cat Z Security and Allied Services on 19.11.2018 under Section 201 of the Income Tax Act, 1961 without correctly appreciating the facts of the case is bad in law and void ab-initio.*
- 4) *That on the facts and circumstances of the case the order of the Hon'ble Commissioner of Income Tax (Appeals) has erred in upholding a demand of Rs. 315/- on non-deduction of TDS on payment of Rs. 15,729/- to M/s J&J Traders on 26.12.2018 under Section 201 of the Income Tax Act, 1961 without*

correctly appreciating the facts of the case is bad in law and void ab-initio.

- 5) *That on the facts and circumstances of the case the order of the Hon'ble Commissioner of Income Tax (Appeals) has erred in upholding a demand of Rs. 612/- on non-deduction of TDS on payment of Rs. 30,558/- to M/s RDC India Projects under Section 201 of the Income Tax Act, 1961 without correctly appreciating the facts of the case is bad in law and void ab-initio.*
- 6) *That on the facts and circumstances of the case the order of the Hon'ble Commissioner of Income Tax (Appeals) has erred in upholding a demand of Rs. 1,05,200/- on non-deduction of TDS on payment of Rs. 52,60,000/- to M/s Mohan International Builders under Section 201 of the Income Tax Act, 1961 without correctly appreciating the facts of the case and is bad in law and void ab-initio*
- 7) *That the Hon'ble Commissioner of Income Tax (Appeals) has erred in upholding a penalty proceeding under section 271 C of the Income Tax Act 1961.*
- 8) *That the appellant craves leave to add, to alter, to amend or vary from the aforesaid grounds of appeal at or before the time of hearing of the said appeal.*

6. At the very outset, the ld. Counsel for the Assessee submitted before the Bench that ld. CIT(A) has dismissed the appeal ex-parte without giving opportunity of hearing to the Assessee.

7. The Id. CIT(A) in his appellate order has mentioned that various opportunities of being heard were given to the Assessee on 17.06.2020, 11.11.2022, 30.01.2024, 06.02.2024 and 14.02.2024 electronically but despite different opportunities given and e-mails sent to the Assessee, nobody did appear. The Counsel for the Assessee submitted that all the notices were sent on e.mail and ITBA portal which the Assessee could not see, therefore, no compliance was made. He further requested that in the interest of natural justice, the matter may be remanded back to the CIT(A) for adjudication of the appeal on merits.

8. The Id. DR did not have any objection.

9. We have considered the submissions made by the Counsel of the Assessee during the proceedings before us and we have also seen the order passed by Id. CIT(A). We find that all the notices were sent on e.mail and ITBA portal, the Assessee could not see it and, therefore, no compliance was made. In our considered opinion, in the fitness of things, we are remanding this matter back to the CIT(A) for adjudication afresh on merit, in accordance with law, on affording due and adequate opportunity of hearing to the Assessee. The Assessee, no doubt, shall cooperate in the fresh proceedings before the CIT(A). All pleas available under the law shall remain so available to the

assessee. Ordered accordingly. The appeal of the Assessee is allowed for statistical purposes.

7. In the result, the appeal is allowed for statistical purposes.

Order pronounced on 24. 02.2025

Sd/-
(RAJPAL YADAV)
Vice President

Sd/-
(KRINWANT SAHAY)
Accountant Member

“आर.के.”

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar