

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

श्री राजेश कुमार, लेखा सदस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. Nos. 631 to 633/Pat/2024
Assessment Years: 2013-14 to 2015-16**

Mamerej Construction Pvt. Ltd. (PAN: AAFCM 2802 C)	Vs.	DCIT, Circle-3, Gaya
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	24.03.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	21.04.2025
For the assessee / निर्धारिती की ओर से	Shri Nishant Maitin, CA
For the revenue / राजस्व की ओर से	Sh. Ashwani Kr. Singal, JCIT

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

These are the appeals preferred by the assessee against the order of Commissioner of Income Tax (Appeal)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 05.10.2023 for AY 2013-14 to 2015-16 respectively.

Since in all the three appeal issues are common, hence taken up together for disposal.

2. It appears from the report of the registry that all the appeals have been filed after the expiry of statutory period of limitation. Petition for condonation of delay in each of the appeal has also been filed by the assessee and reasons are the same, so we took up one of the condonation petition, which are as follows-

“Krishna Kant Dubey, s/o Sri Hari Shankar Dubey, (Having PAN FYXID4512G) residing at Plot No 84, Balaji Colony, Samneghat, laaka, Varanasi - 22105 (Uttar Pradesh), do hereby solemnly and sincerely affirm as below:

1. That I am director of M/s Mamerej Construction Private Ltd. having CIN 345203BR2007PTC012788 and PAN-AAFCM2802C and that I have been appointed as director of the company from 13.10.2023 along with other director - Sri Ashutosh Dubey.

2. Sri Ashutosh Dubey, s/o Late Umashanker Dubey is my immediate cousin and resides with my family at Varanasi.

3. That Sri Ashutosh Dubey was suffering from Hepatopulmonary syndrome which was under treatment of since October, 2016. Copy of medical prescriptions are being enclosed as Annexure to this affidavit.

4. That subsequent to appointment of both the directors 13.10.2023, copy of snapshot drawn from MCA website and attached as Annexure 2 of this affidavit, the medical condition of Sri Ashutosh Dubey aggravated and the undersigned had to move to Delhi for his treatment.

5. That due to this situation, the appellant could not pay attention to business of the company and make other necessary various compliances with statutory authorities.

6. That due to the given situation, appeal before the Hon'ble ITAT. Patna Bench, Patna could not be filed within the statutory period.

7. That upon realizing the mistake, the appeals were filed on 31.10.2024.

8. That the said mistake being a bonafide mistake and was caused as the deponent was disturbed due to medical condition of cousin brother, who also being director in the company and residing with the deponent's family since childhood.”

On perusal of the condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee are that the assessee filed return of income and the case of the assessee was selected for scrutiny. Notice was issued to the assessee but there was non-compliance on behalf of the assessee, as a result of which, the assessment order was done u/s 143(3) of the Act in all the three cases.

4. Aggrieved by the said order, the assessee preferred an appeal before the Ld. CIT(A) wherein also the appeal of the assessee has been dismissed because of the reason that in spite of several opportunities, the assessee did not file any explanation.

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

5. The ld. Counsel appeared on behalf of the assessee instead of arguing into the merit of the case has only submitted that the assessee has to give opportunity in all the cases to place its case before the Ld. CIT(A) as the order passed by the AO as well as Ld. CIT(A) are ex-parte order without discussing into the merit of the case.

6. The Ld. D.R did not raise any objection in restoring the file before the Ld. CIT(A).

7. Upon hearing the submission of the counsel of the respective parties, we have perused the order of Ld. CIT(A) as well as the AO and find that in all the case the assessment u/s 143(3) has been done when there were no responses from the side of the assessee on the date fixed by the AO. Same thing had been happened before the Ld. CIT(A) as the order of the Ld. CIT(A) reveals that in response to the notice till date, no explanation whatsoever had been offered by the appellant to justify its claim. The order passed by the Ld. CIT(A) is an ex-parte order without discussing the merit of the case. Keeping in view the submission made by the assessee as well as order passed by the lower authorities, we are inclined to give an opportunity to the assessee to place its case before the Ld. CIT(A). All the three appeals are restored to the file of Ld. CIT(A) for fresh decision after hearing the assessee.

In the result, all the appeals filed by the assessee are allowed for statistical purposes.

Order is pronounced in the open court on 21st April, 2025

Sd/-

Sd/-

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

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

Dated: 21st April, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Mamerej construction Pvt. Ltd., Bhardua, Cherari, Sasaram, Bihar-821104
2. Respondent – DCIT, Circle-3, Gaya
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Patna
5. DR, Patna Bench, Patna

True Copy

By Order

Assistant Registrar /Sr. Private Secretary
ITAT, Patna Bench, Patna