

IN THE INCOME TAX APPELLATE TRIBUNAL

"A" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.1078/MUM/2025
(Assessment Year : 2010-11)

ITA No.1081/MUM/2025
(Assessment Year : 2013-14)

Luminous Venture Pvt. Ltd.,
C-402, Fortune Towers,
Madhapur Main Road, Madhapur,
Hyderabad - 500081
PAN : AABCL3826F

..... Appellant

v/s

DCIT, Central Circle-4(1),
Mumbai - 400020

..... Respondent

Assessee by : Shri Ashok Bansal
Revenue by : Shri Aditya M. Rai, Sr.DR

Date of Hearing – 07/07/2025

Date of Order - 09/07/2025

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeals against the separate impugned orders of even date 02/01/2025, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals)-52, Mumbai [*learned CIT(A)*], for the assessment years 2010-11 and 2013-14.

2. From the perusal of the impugned orders, we find that the learned CIT(A) dismissed the appeal filed by the assessee on the ground of delay. As per the learned CIT(A), the assessment order dated 17.03.2016 has been

acknowledged to be received by the assessee on 18.04.2016 as per Form 35, however, the assessee filed the appeal only on 08.10.2016 for the assessment years 2010-11 and 2013-14. The learned CIT(A) further noted that in Form 35, the assessee, while explaining the reason for delay, submitted that the order was personally collected by one of the office personnel and the same was misplaced. As per the assessee, since there was no employee of the assessee other than the Director, it was difficult to trace the order and the same was finally collected in October 2016, and the present appeals were filed. The learned CIT(A) held that the assessee has made a generalised statement without furnishing any evidence in respect of the condonation of delay. Accordingly, in both the assessment years under consideration before us, the learned CIT(A) dismissed the appeal filed by the assessee at the threshold on the ground of delay.

3. During the hearing before us, the learned Authorised Representative ("*learned AR*") by referring to the affidavit sworn by one of the Directors of the assessee submitted that the assessee filed the appeals before the learned CIT(A) for the assessment years 2008-09, 2009-10, 2011-12, 2012-13 and 2014-15 within prescribed limitation period, however, as the assessment order for the assessment years 2010-11 and 2013-14 was misplaced and there was no employee in the assessee company, the appeals pertaining to these years could not be filed within time before the learned CIT(A). The aforesaid affidavit is reproduced as follows for ready reference: -

AFFIDAVIT

1, Mrs. Vani Murthy Palaparthi, in my capacity as director of Luminous Venture Private Limited (The Appellant), do hereby solemnly declare that:

1. *The Appellant has address at C-402, Fortune Towers, Madhapur Main Road, Madhapur, Dist. Hyderabad-500081 and is assessed to tax with PAN AABCL3826F.*
2. *For assessment years from AY 2008-09 to AY 2014-15 assessment orders U/S 144 of the Income Tax Act, 1961 were passed by the Learned Deputy Commissioner of Income Tax, Central Circle 4(1), Mumbai on 17th March, 2016 and were served on 18th April, 2016.*
3. *That the assessment order for AY 2013-14 was misplaced and the appeal against this order was not filed in time. There was no employee in the appellant company at that time and the omission was realised only in end of September, 2016. Immediately on realising the omission, the assessment order was again collected personally in October, 2016 and the appeal was filed on 8th October, 2016.*
4. *The appellant requested for condonation of delay in filing of the appeal. However, the learned Commissioner of Income Tax, (Appeals)-52, Mumbai did not condone the delay and dismissed the appeal on account of delay in filing.*
5. *That an appeal was filed before the Hon. Income Tax Appellate Tribunal, Mumbai against the order passed by the Learned Commissioner of Income Tax (Appeals). During the course of hearing of this appeal, the Hon'ble bench has directed the appellant to file an affidavit with regard to delay in filing appeal before the First Appellate Authority.*
6. *That the appellant submits that the appeals for AY 2008-09, AY 2009-10, AY 2011-12, AY 2012-13 and AY 2014-15 were filed in time and the appellant had no malafide intention in delaying the impugned First Appeal."*

4. The assessee has filed a similar affidavit in its appeal for the assessment year 2013-14. From the perusal of the impugned orders, we further find that the assessee did not comply with the hearing notices issued by the learned CIT(A) after 10.10.2019 till the passing of the impugned orders.

5. In the present appeal, the assessee is duly represented by the learned AR and wishes to pursue the litigation. Accordingly, in the larger interest of justice, we deem it appropriate to restore the appeals to the file of the learned CIT(A), granting another opportunity to the assessee to explain the delay in filing the appeal for the assessment years 2010-11 and 2013-14 before the learned CIT(A). The learned CIT(A) is directed to consider the application, if

so filed by the assessee, for seeking condonation of delay and decide the same as per law and proceed accordingly. With the above directions, the impugned orders are set aside, and the grounds raised by the assessee in both appeals are allowed for statistical purposes.

6. In the result, the appeal by the assessee for the assessment years 2010-11 and 2013-14 are allowed for statistical purposes.

Order pronounced in the open Court on 09/07/2025

Sd/-

**NARENDRA KUMAR BILLAIYA
ACCOUNTANT MEMBER**

Sd/-

**SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: 09/07/2025

Prabhat

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai