

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 2512/KOL/2024
Assessment Year: 2012-2013**

***Test Jewellery Pvt. Limited,.....Appellant
9/12, Block-A, 3rd Floor,
Lal Bazar Street, Kolkata-700001
[PAN:AACCT8724B]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-4(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

*Shri A.K. Tibrewal and Shri Souravh Gupta, FCA,
appeared on behalf of the assessee*

*Shri Mrinmoy Basak, Sr. D.R., appeared on behalf of the
Revenue*

**Date of concluding the hearing: November 17, 2025
Date of pronouncing the order: November 20, 2025**

O R D E R

The present appeal is directed at the instance of assessee against the order of Id. Addl./Joint Commissioner of Income Tax (Appeals)-10, Mumbai dated 16.02.2024 passed for Assessment Year 2012-2013.

2. The appeal is time barred by 225 days in filing the appeal by the assessee. However, the Director of the assessee-Company filed an affidavit dated 11th December, 2024 before the ITAT in support of condonation of delay of 225 days mentioning that the delay occurred due to non-service of the order to the assessee-Company even despite diligent efforts to monitor communications from the income tax department, the impugned order was somehow not received by the Company and became aware of the impugned order upon checking the income tax portal during routine compliance procedures. When he came to know about the order passed by the Id. Addl./JCIT(Appeals), he approached the Id. A.R. to prefer an appeal, due to that there was a delay of 225 days in filing the appeal before the Tribunal and there was no deliberate lapse or negligence on his part. Therefore, he pleaded to condone the delay.

3. Considering the facts and circumstances of the case, I am of the view that the assessee was prevented in filing the appeal within the stipulated time. Therefore, I am inclined to condone the delay of 225 days. Hence the delay is condoned.

4. At the time of hearing, ld. Counsel for the assessee submitted that the ld. Addl./JCIT(Appeals) has passed the order ex-parte without giving opportunities to the assessee. He also submitted that even the assessment order has been passed under section 143(3)/147 of the Act due to non-compliance from the side of the assessee with regard to the show-cause notice. He prayed for one more opportunity to substantiate his case before the ld. Addl./JCIT(Appeals).

5. At the time of hearing, ld. Sr. Departmental Representative supported the orders of lower authorities.

6. I have heard both the sides and perused the material available on record. A perusal of the impugned order clearly shows that as there was no response to the notices to substantiate the claim with documentary evidences and submissions, ld. Addl./JCIT(Appeals) confirmed the addition made by the ld. Assessing Officer. It is also evident that the ld. Addl./JCIT(Appeals) has not discussed the issue on merits and dismissed the appeal due to non-appearance. I also find that the assessment order has been passed u/s. 143(3)/147 of the Act as the assessee remained non-compliant and failed to produce any evidence or supporting

documents in support of the claim. Considering the facts and circumstances of the case, I am inclined to set aside the order passed by the ld. Addl./JCIT(Appeals) and in order to meet the principle of natural justice, remit the matter back to the file of the ld. Addl./JCIT(Appeals) with a direction to provide one more opportunity of being heard to the assessee. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the ld. Addl./JCIT(Appeals) failing which the ld. Addl./JCIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. Thus, the grounds raised by the assessee are partly allowed for statistical purposes.

7. In the result, appeal of the assessee stands partly allowed for statistical purposes.

Order pronounced in the open Court on 20/11/2025.

Sd/-
(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 20th day of November, 2025

*Copies to :(1) Test Jewellery Pvt. Limited,
9/12, Block-A, 3rd Floor,
Lal Bazar Street, Kolkata-700001*

(2) *Income Tax Officer,
Ward-4(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069*

- (3) *Addl./JCIT(A)-10, Mumbai;*
(4) *CIT - , Kolkata;*
(5) *The Departmental Representative;*
(6) *Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha