

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri Manjunatha G., Accountant Member
and
Shri Ravish Sood, Judicial Member

आ.अपी.सं /**ITA No.62/Hyd/2022**
(निर्धारण वर्ष /Assessment Year:2011-12)

M/s. 3K Technologies Limited, Hyderabad. PAN: AAACZ2607F	Vs.	Income Tax Officer, Ward-2(2), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri P. Murali Mohan Rao, CA	
राजस्व द्वारा/Revenue by:	Dr. Sachin Kumar, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	26/02/2026	
घोषणा की तारीख/Date of Pronouncement:	06/03/2026	

आदेश / ORDER

PER. RAVISH SOOD, J.M:

The present appeal filed by the assessee company is directed against the order passed by the Commissioner of Income Tax (Appeals)-2, Hyderabad, dated 28/03/2016, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under section 143(3) of the Income Tax Act, 1961 (for short, "the Act"), dated 30/03/2014 for the Assessment Year (AY) 2010-11. The assessee company has

assailed the impugned order of the CIT(A) on the following grounds of appeal:

- “1. On the facts and in the circumstances of the case the appellate order passed by the CIT(A) is erroneous both on facts and in law to the extent the order is prejudicial to the interest of the appellant.
2. The Ld. CIT(A) ought to have appreciated the fact that the order of AO is bad in facts and against the weight of evidence and therefore, is not sustainable in law.
3. The Ld. CIT(A) ought to have appreciated the fact that the order of AO is not based on any evidence and is made on the basis of conjectures, surmises and suspicion.
4. The Ld. CIT(A) ought to have appreciated the fact that the AO erred in disallowing the claimed of exemption of income u/s 10AA of the Act.
5. The Ld. CIT(A) ought to have appreciated the fact that the appellant company is having all necessary information and documents in respect of claimed of exemption u/s 10AA of the Act.
6. The Ld. CIT(A) ought to have appreciated the fact that the Ld. AO erred in estimating the income of the appellant company @ 22% on turnover and arriving at the income of Rs. 4,01,86,886/-
7. The Ld. CIT(A) ought to have accepted the net profit declared by the assessee company in the books of accounts.
8. The Ld. CIT(A) ought to have appreciated the fact that the AO erred in rejecting the books of accounts on incorrect assertions of facts of the case for the year under consideration.
9. The Ld. CIT(A) ought to have appreciated the fact that the appellant company having all the relevant documents and information required for the completion of assessment.
10. The Ld. CIT(A) ought to have appreciated the fact that, without prejudice to the above grounds, the AO erred in estimating the income of the appellant company @ 22% which is very high in the line of business of appellant company and is not based on any scientific methodology.
11. The CIT(A) failed to have appreciated the fact that the AO ought to have estimated the income of the appellant company based on the past profit declared by the appellant company.
12. The appellant may add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.”

2. Succinctly stated, the assessee company, which is engaged in the business of export of software, had filed its return of income for AY 2010-

11, dated 30/09/2011, declaring its income at Rs. Nil. The return of income filed by the assessee company was initially processed under section 143(1) of the Act. Subsequently, the case of the assessee company was selected for scrutiny assessment under section 143(2) of the Act.

3. During the course of the assessment proceedings, the AO called upon the assessee company to substantiate its claim for exemption under section 10AA of the Act, deduction of software expenses claimed at Rs. 13.30 crores, and also to furnish the information required for finalising its case. As the assessee company failed to comply with the aforesaid notice and did not furnish the requisite details/information, the AO vide his show cause notice (SCN), dated 21/03/2014 called upon it to explain as to why its claim of exemption under section 10AA of the Act of Rs.12.22 lakhs may not be rejected and its income be estimated at the rates prescribed under the safe harbour rules on the gross receipts. However, the aforesaid show cause notice (SCN), dated 21/03/2014, was also not acted upon by the assessee company.

4. The AO, based on the aforesaid facts, was constrained to proceed and frame the assessment to the best of his judgment as per the material available on record. The AO observed that as the assessee company

was not given a certificate under section 15(9) of the SEZ Act, 2005, therefore, it was disentitled from claiming exemption under section 10AA of the Act, and disallowed the same. Also, the AO taking cognizance of the fact that the assessee company had failed to substantiate its claim for deduction of expenses of Rs.13,30,85,066/- debited under the head “software expenses” in its Profit and Loss account, rejected its book results and estimated the income @ 22% of its gross receipts of Rs.18,26,67,662/-, and vide his order passed under section 143(3) of the Act, dated 30/03/2014 determined the same at Rs.4,01,86,886/-.

5. Aggrieved, the assessee company carried the matter in appeal before the CIT(A) but without success.

6. The assessee company aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

7. Shri P. Murali Mohan Rao, CA, Learned Authorised Representative (for short, “Ld. AR”) for the assessee company at the threshold of hearing of the appeal submitted that the present appeal involves a delay of 2111 days. The Ld. AR had drawn our attention to the application filed by the assessee company, dated 08/03/2022, seeking condonation of the delay of 2111 days along with a supporting “affidavit”, dated Nil of its Managing Director. The Ld. AR submitted that

the delay in filing the present appeal had crept in for the reason that the CIT(A) order, dated 28/03/2016, was served on a staff member of the assessee company, who thereafter had misplaced the same and not brought it to the notice of the person concerned. It is further stated that the Managing Director of the assessee company at the relevant point of time was out of station and thus, had remained unaware about the dismissal of the appeal of the assessee company by the CIT(A). Elaborating further, it is deposed in the “affidavit” that the assessee company had learnt about the CIT(A) order, dated 28/03/2016, only on 06/03/2022 and had, thereafter, involving no further loss of time, filed the present appeal on 08/03/2022, which by the time involved a delay of 2111 days.

8. The Ld. AR based on the aforesaid facts submitted that, as the delay in filing of the present appeal had occasioned, not because of any lackadaisical approach, but because of bona fide unawareness of the assessee company about the disposal of its appeal by the CIT(A), therefore, the same in all fairness be condoned.

9. Per contra, Dr. Sachin Kumar, Learned Senior Departmental Representative (for short, “Ld. Sr-DR”) vehemently objected to the seeking of condonation of the delay in filing of the present appeal by the

assessee company. The Ld. Sr-DR submitted that not only delay in filing the present appeal, is inordinate, but also it has not been explained based on any justifiable reason. The Ld. DR submitted that the unsubstantiated claim of the assessee company regarding the reason leading to the delay in filing the present appeal is devoid and bereft of any substance, and thus, the same does not merit acceptance.

10. We have given thoughtful consideration to the contentions advanced by the Learned Authorised Representatives regarding the delay involved in filing the present appeal, and seeking of condonation of the same by the assessee/appellant, as well as have considered the judicial pronouncements pressed into service by the Ld. AR's to drive home their respective contentions.

11. At the threshold, we find it incomprehensible that though the assessee company vide its present "affidavit" had stated that the delay in filing the present appeal had crept in because the same was served on the staff member of the assessee company who had misplaced the same and not brought it to the notice of the person concerned, but vide an earlier "affidavit" filed by the same person, viz., Shri V. Ravi Kumar, Managing Director of the assessee company, it was deposed by him that the order passed by the CIT(A), dated 28/03/2016 was not served on

any authorized person of the assessee company. We are unable to fathom that on the one hand the assessee company states that the CIT(A) order was served on a staff member of the assessee company who had misplaced the same and not brought it to notice of the concerned person, while for in the same breath had as per his earlier "affidavit" deposed that no order of the CIT(A), dated 28/03/2016 was served upon any authorized person.

12. Be that as it may, we find substance in the Ld. DR's contention that not only the delay of 2111 days involved in the present appeal filed before us is inordinate, but also, the same had not been explained by the assessee company based on any justifiable reason.

13. Although the Ld. AR had tried to come up with a reason regarding the delay in filing the present appeal, but we find the same as nothing better than an eyewash. We are of firm conviction that not only the delay of 2111 days involved in the present appeal before us is inordinate, but also the unsubstantiated explanation of the assessee regarding the reason leading to the same, as observed by us hereinabove, does not inspire any confidence.

14. Be that as it may, we are of the view that though a judicial and liberal approach should be adopted for condoning the delay involved in

an appeal filed by an appellant and the same should normally be condoned, but such a view cannot be adopted in a case involving inordinate delay of 6 years (approx.), in absence of any justifiable reason given by the assessee appellant. We find that the law is well settled that while courts are expected to adopt a liberal approach in considering petitions for condonation of delay where sufficient cause is shown, such liberality cannot be extended to condone inordinate delay where the explanation is vague, casual, or lacking in bona fides. Our aforesaid view is supported by the order of the **Hon'ble Supreme Court in Basawaraj & Anr. v. Special Land Acquisition Officer (2013) 14 SCC 81**, wherein the Hon'ble Apex Court, while upholding the order of the High Court, which had dismissed the appeal on the ground of limitation, had observed as under:

“15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. **In case there was no sufficient cause to prevent a**

litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

16. In view of above, no interference is required with impugned judgment and order of the High Court. The appeals lack merit and are, accordingly, dismissed.”

(emphasis supplied by us)

Further, the **Hon’ble Supreme Court** in **P.K. Ramachandran v. State of Kerala (1997) 7 SCC 556** has held as under:

“Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. Courts have no power to extend the period of limitation on equitable grounds.”

15. We, thus, in terms of our aforesaid observations, are of the view that the explanation offered by the assessee company regarding the reason leading to the inordinate delay of 2111 days in filing the appeal before the CIT(A) does not inspire any confidence and is totally devoid and bereft of any substance. In our view, as the limitation provisions are based on sound public policy to ensure certainty, finality, and avoidance of stale claims, and the assessee company has failed to come forth with any plausible explanation regarding the delay involved in filing the

present appeal, therefore, we are constrained to dismiss the same on the ground of limitation itself.

16. Resultantly, the appeal filed by the assessee company is dismissed on the ground of limitation.

Order pronounced in the open court on 06th March, 2026.

Sd/- (MANJUNATHA G.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
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Hyderabad,
Dated 06th March, 2026.
****OKK / SPS**

Copy to:

S.No	Addresses
1	3K Technologies Limited, C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad-500082.
2	Income Tax Officer, Ward-2(2), Hyderabad.
3	The Pr.CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order

Sr. Private Secretary,
ITAT, Hyderabad.