

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'H' NEW DELHI**

**BEFORE SHRI S.V. MEHROTRA, ACCOUNTANT MEMBER
&
SMT. BEENA PILLAI, JUDICIAL MEMBER**

**I.T.A .No. 453/Del/2014
(ASSESSMENT YEAR-2009-10)**

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| Ucal Fuel System Ltd. C/o S. Sridhar, Advocate, New No. 14, Old No. 82, Flat No. 5, 1 st Avenue, Indira Nagar, Adyar, Chennai. AAACUO541K | vs | ACIT(TDS) Gurgaon. |
| Appellant by | None | |
| Respondent by | Sh. V.R. Sombhadra, Sr. DR | |

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| Date of Hearing | 06.04.2016 |
| Date of Pronouncement | 19.04.2016 |

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER:

The present appeal has been filed by the assessee against the order of CIT (A)-2, Faridabad for assessment year 2000 910 vide order dated 17. 12. 2013 on the following grounds of appeal:

- 1. "The order of the CIT(A)-2, Faridabad dated 17.12.2013 in Appeal No. 179/GGN/2011-12 for the above mentioned assessment year is contrary to law, facts, and in the circumstances of the case;*
- 2. The CIT(A) erred in dismissing the appeal as void ab initio by not condoning the small delay in filing the said appeal before him without assigning proper reasons and justification;*

3. *The CIT(A) failed to appreciate that the reasons furnished for the belated filing of the appeal were not considered in proper perspective and ought to have appreciated that the delay occurred in obtaining instructions from the head office at Chennai would constitute reasonable cause for the small delay in filing the appeal before him;*
4. *The CIT(A) failed to appreciate that non admission of appeal on technical grounds without giving further opportunity of hearing would vitiate his action in relation thereto;*
5. *The CIT(A) failed to appreciate that in any event the order passed in treating the appellant as a defaulter in terms of section 201(1) of the Act and the order in imposing penalty u/s 201(1A) of the Act was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law;*
6. *The CIT(A) failed to appreciate that there were no reasons for treating the appellant as a defaulter within the provisions governing the tax deduction at source and ought to have appreciated that the consequential order passed u/s 201(1) of the Act was bad in law;*
7. *The CIT(A) went wrong in recording the findings in this regard in paras 2.2 and 2.3 of the impugned order without assigning proper reasons and justification;*
8. *The CIT(A) failed to appreciate that there was no proper opportunity given before passing the impugned order and any order passed in violation of the principles of natural justice is nullity in law;*
9. *The appellant craves leave to file additional grounds/arguments at the time of hearing.”*

The brief facts of the case are as under:

2.1 The assessing officer has passed an order under section 201 (1)/201 (1A) of the act. The assessee had filed each TDS statement and corrections statement. The same was analysed on the basis of the entries reported by the deduct the assessee in the statement on the information available as per the bank challan

details the Ld. AO observed that there were certain false of non-payment of tedious amount deducted and non-/low deduction of tedious at prescribed rates and late payment of taxes. Accordingly the assessee was called upon alongwith details. The Ld. AO has recorded in his order that the assessee had not rectified the mistakes that were indicated to him during the assessment proceedings within the stipulated period to file the correction statements. Accordingly the assessing officer made an addition of Rs.9,00,960/-.

3. Aggrieved by the order of the Ld. AEO the assessee preferred an appeal before the Ld. CIT (A) the Ld. CIT a observed that the assessee has filed the appeal before him with a delay of 30 days. It is also been recorded that the reasons submitted by the assessee for filing of delayed appeal is not satisfactory to the Ld. and CIT-A. Accordingly the Ld. and CIT-A dismiss the appeal filed by the assessee on the ground that the assessee has anon complaint attitude towards the appellate proceedings.

4. Aggrieved by the order of the Ld. and CIT-A the assessee is in appeal before us now.

4.1. We have produced the order of the authorities below. It is an admitted position that the assessee has filed the appeal with a delay of 30 days. However the reasons for filing a belated appeal which has been reproduced by the Ld. and CIT(A) in his order at page 2 reveals that these were sufficient cause for the assessee within the stipulated time.

4.2. We are accordingly inclined to condone the delay of 30 days and set aside the issue back to learn it CIT (A) for adjudication of

the issue on merits. Accordingly the grounds raised by the assessee stands statistically allowed.

5. In the result the appeal stands statistically allowed.

The order is pronounced in the open court on 19.04.2016.

Sd./-
(S.V. MEHROTRA)
ACCOUNTANT MEMBER
MEMBER

Dated:

**Kavita Arora*

Sd./-
(BEENA PILLAI)
JUDICIAL

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT
REGISTRAR
ITAT NEW DELHI