

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

**Before Shri Rajpal Yadav, Vice-President
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 698/KOL/2023
Assessment Year: 2012-2013**

***Amritlaxmi Commercial Pvt. Limited,.....Appellant
C/o. Jain Vinod K & Associates,
41A, A.J.C. Bose Road, Suite No. 613, 6th Floor,
Kolkata-700017
[PAN: AAICA4163D]***

-Vs.-

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

Appearances by:

Shri Akshay Vinod Jain, A.R., appeared on behalf of the assessee

Shri B.K. Singh, JCIT, Sr. D.R., appeared on behalf of the Revenue

Date of concluding the hearing : August 24, 2023

Date of pronouncing the order : October 13, 2023

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 3rd May, 2023 passed for A.Y. 2012-13.

2. The assessee has raised four grounds of appeal. In the first ground, it has pleaded that appeal is time-barred and, therefore, the delay in filing the appeal be condoned.

3. The assessee further pleaded in the ground that there was no intention to delay in filing the appeal, but signatory Director was absent for his personal work, hence the appeal could not be signed for filing in time.

4. In Ground No. 2, the assessee has challenged the levy of penalty amounting to Rs.10,000/- under section 271(1)(b) on account of non-attending the notice issued under section 142(1) of the Income Tax Act.

5. Brief facts of the case are that the assessee has filed its return of income on 09.10.2012 declaring a total income of Rs.4,181/-. The case of the assessee was selected for scrutiny assessment. The Id. Assessing Officer has observed that the assessee has received share application money amounting to Rs.19,69,50,000/- on the face value of Rs.10/- and it has received premium of Rs.999/-. The Id. Assessing Officer had issued notice under section 131 to the Directors for recording the statement of facts and also to substantiate the identity of share applicants and also look into the genuineness and creditworthiness of the applicants, but no one appeared

on behalf of the assessee. Similarly response to notice issued under section 142(1) was not given by the assessee. Hence, ld. Assessing Officer has initiated penalty under section 271(1)(b) of the Income Tax Act. He passed an *ex-parte* assessment and made the addition of Rs.19,69,50,000/-.

6. The ld. Assessing Officer thereafter issued notice under section 274 of the Income Tax Act inviting the explanation of the assessee as to why penalty be not imposed upon it for non-appearance. The ld. Assessing Officer has ultimately imposed penalty of Rs.10,000/- vide order dated 21.08.2015.

7. Appeal to the ld. CIT(Appeals) did not bring any relief to the assessee.

8. Before us, the assessee has filed a paper book whereby it has placed on record copy of the assessment order and other details. In the written submission filed before the Tribunal, the assessee has prayed that delay in filing the appeal of eight days be condoned.

9. With the assistance of ld. Representatives, we have gone through the record carefully. The written submission, whereby prayer for condonation of delay is being made, is under the signature of ld. Counsel for the

assessee and not under the signature of any authorized person, who can sign the return. The signatures on the appeal are of one Asha Mishra, but the Power of Attorney issued in favour of the ld. Counsel is of Shri Suvojit Roy alleged to be a Director. The complete list of Directors has not been placed on record. Grounds of appeal before the ld. CIT(Appeals) are signed by a third person, who has also been alleged as a Director i.e. Shri Rabindra Saw. It is not discernable, who is the authorized person for signing all these papers. Apart from the above, we find that antecedents of the assessee are such that put it under the category of paper companies. It has commanded share application money of Rs.19.56 crores at a huge premium of Rs.999/- at the face value of Rs.10/-.

10. We have duly considered the rival contentions and gone through the record carefully. Section 254, sub-section (3) provides that in case an appellant satisfies the Tribunal with sufficient reasons for filing appeal beyond limitation, then Tribunal would admit such appeal for adjudication on merit. A perusal of the record would suggest that assessee has not filed any application under section 254, sub-section (3). It has only raised one of the grounds of appeal amongst others. In the ground, the assessee has pleaded that the signatory Director went outside and, therefore, appeal papers could not be

signed. We have perused these reasoning. It is pertinent to note that the Power of Attorney executed in favour of ld. Counsel for the assessee is under the signature of Shri Suvojit Roy. The grounds of appeal filed before the ld. CIT(Appeals) are signed by one Shri Rabindra Saw. The grounds of appeal filed before the Tribunal are under the signature of Asha Mishra. It shows that the three persons had signed the papers meant for prosecuting the litigation at different times. Though all are authorized persons in a way. A perusal of the plea in the grounds of appeal, assessee has not specified, which was the Director authorized at that point of time when appeal papers were prepared and when such Director went outside. We are conscious of the fact that when an issue for condonation of delay is required to be adjudicated by the Appellate Authority, then, a sympathetic approach is to be adopted. But we find that the assessee has raised share application money of Rs.19.56 crores by taking premium @ 999 rupees on a share having face value of Rs.10/-. Its returned income is a very meagre. There are no financial activities or operational income with the assessee. The assessee did not appear before the ld. Assessing Officer in the assessment proceeding. In response to the show-cause notice for levy of penalty under section 271(1)(b) of the Income Tax Act, the assessee has only filed one letter to the ld. Assessing Officer for keeping the penalty proceeding in abeyance. It

has not filed any document as to why penalty should not be imposed upon it. Looking to this casual attitude at the end of the assessee, we are satisfied that a small amount of penalty of Rs.10,000/- is just a token of punishment to chide the assessee. When we examine the facts with this angle, then, we felt that the assessee does not deserve any leniency or sympathy. Therefore, it has not given any plausible reason as to why the delay of eight days be condoned. Hence, this appeal is dismissed by treating it as time-barred.

11. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on October 13, 2023.

Sd/-
(Rajesh Kumar)
Accountant Member

Sd/-
(Rajpal Yadav)
Vice-President(KZ)

Kolkata, the 13th day of October, 2023

*Copies to :(1) Amritlaxmi Commercial Pvt. Limited,
C/o. Jain Vinod K & Associates,
41A, A.J.C. Bose Road, Suite No. 613, 6th Floor,
Kolkata-700017*

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

*(3) Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC), Delhi;
(4) Commissioner of Income Tax ,*

- (5) *The Departmental Representative*
(6) *Guard File*
TRUE COPY

By order

Assistant Registrar
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.

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