IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO.102 OF 2018

Anatek Services Pvt Ltd. ....Appellant

V/s.

Asst. Commissioner of Income Tax-10(1) ...Respondents

Mr. Manoj Pandit for Appellant
Mr. Suresh Kumar for Respondents

CORAM : K.R. SHRIRAM &
N.J. JAMADAR, JJ
DATED : 11th FEBRUARY 2022

P.C. :

1 Appellant is impugning an order pronounced on 7th April 2017 passed by the Income Tax Appellate Tribunal (ITAT), rejecting the application for condonation of delay in filing the appeals filed by appellant relating to penalty order dated 3rd March 2005 under Section 271(1)(c) of the Income Tax Act 1961 (the Act), in three appeals filed for A.Y.-1999-2000, 2001-2002 and 2002-2003. According to ITAT, the assessee has filed its appeals before the Commissioner of Income Tax (Appeals) [CIT(A)] against three penalty orders on 24th June 2013 and hence there was huge delay of about 8 to 9 years in filing the appeals before the Learned CIT (A). In normal circumstances, we would also have dismissed this appeal but the facts and circumstances of this case persuaded us to condone the delay.

2 Appellant has received three penalty orders for the three assessment years as mentioned earlier. It is appellant's case that to buy peace and put an end to the dispute, they paid the penalty amount as well. That is not disputed. One fine day, almost 8 years later, sometime in 2013, appellant received a notice calling upon to show cause as to why prosecution should not be initiated against appellant. Surprised with the turn of events, appellant decided to challenge the penalty orders. The challenge was rejected by CIT(A) saying that the appeals have been filed with much delay. CIT(A) overlooked one factor that the prosecution itself has been launched 8 or 9 years after the penalty amount was paid by appellant. If the department feels that they can do this after 8 or 9 years delay, in our view, they must apply the same yardsticks for an assessee.

3 In the circumstances, we condone the delay in filing the appeals. The order of the ITAT pronounced on 7th April 2017, is hereby quashed and set aside. The order of CIT(A) dated 14th August 2014 rejecting the appeals also is quashed and set aside. The CIT(A) is directed to consider the appeals filed by appellant in accordance with law and dispose the same within 12 weeks from the date of this order is uploaded. Appellant will forward a copy of the appeals filed alongwith the copy of this order to CIT(A) within one week of this order being uploaded. The CIT(A) shall grant a personal hearing to appellant and intimate date and time of personal hearing at least 7 days in advance. If respondent wishes to rely on any judgment or order passed by any Court or Tribunal, he shall provide a copy thereof to appellant

and give them an opportunity to deal with those judgments or distinguish those judgments and those submissions of appellant shall also be dealt with in the assessment order.

4 Appeal disposed with no order as to costs.

(N. J. JAMADAR, J.) **(K.R. SHRIRAM, J.)**