IN THE HIGH COURT OF JHARKHAND AT RANCHI
Tax Appeal No. 14 of 2020
With
I.A. No.698 of 2021

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO & PS- Patna, District-Patna.

... ... Appellant

Versus

Tripta Sharma ... ... Respondent

With
Tax Appeal No. 11 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO & PS- Patna, District-Patna.

... ... Appellant

Versus

Tripta Sharma ... ... Respondent

With
Tax Appeal No. 12 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO & PS- Patna, District-Patna.

... ... Appellant

Versus

Tripta Sharma ... ... Respondent

With
Tax Appeal No. 13 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO & PS- Patna, District-Patna.

... ... Appellant

Versus

Tripta Sharma ... ... Respondent

With
Tax Appeal No. 15 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO & PS- Patna, District-Patna.

... ... Appellant

Versus

Kamal Deo Sharma ... ... Respondent

With

Tax Appeal No. 16 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO & PS- Patna, District-Patna.

... ... Appellant

Versus

Kamal Deo Sharma ... ... Respondent

With

Tax Appeal No. 17 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO & PS- Patna, District-Patna.

... ... Appellant

Versus

Kamal Deo Sharma ... ... Respondent

With

Tax Appeal No. 18 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO & PS- Patna, District-Patna.

... ... Appellant

Versus

Kamal Deo Sharma ... ... Respondent

With

Tax Appeal No. 19 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s Rajat Minerals Private Limited ... ... Respondent

With

Tax Appeal No. 20 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s Rajat Minerals Private Limited ... ... Respondent

With

Tax Appeal No. 21 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s Rajat Minerals Private Limited ... ... Respondent

With

Tax Appeal No. 22 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s Rajat Minerals Private Limited ... ... Respondent

With

Tax Appeal No. 23 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s Rajat Minerals Private Limited ... ... Respondent

With

Tax Appeal No. 24 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s Rajat Minerals Private Limited ... ... Respondent

With

Tax Appeal No. 25 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s Rajat Minerals Private Limited ... ... Respondent

With

Tax Appeal No. 26 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s KDS Contractors Private Limited ... ... Respondent

With

Tax Appeal No. 27 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s KDS Contractors Private Limited ... ... Respondent

With

Tax Appeal No. 28 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s KDS Contractors Private Limited ... ... Respondent

With

Tax Appeal No. 29 of 2020

The Principal Commissioner of Income Tax, Central, Patna having its office at Central Revenue Building, 3rd Floor, Birchand Patel Marg, PO-C.R. Building & PS- Patna, District-Patna.

... ... Appellant

Versus

M/s KDS Contractors Private Limited ... ... Respondent

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Appellant : Mr. Anurag Vijay, Advocate
Mr. Om Prakash, Advocate

For the Respondent : Mr. Mahendra Choudhary, Advocate
Mr. Piyush Poddar, Advocate
Mr. Devesh Poddar, Advocate

Mr. Manav Poddar, Advocate

Order No. 10/Dated 9th July, 2024

These appeals have been filed to quash the order passed by the Judicial Member and Accountant Member of the Income Tax Appellate Tribunal (ITAT), Ranchi Bench, Ranchi in the appeal for different assessment years.

2. Learned counsel for the revenue contended that even though the appeals have been filed but at a belated stage, therefore, he wants to take necessary steps for condonation of delay and file applications for the said purpose.

3. In these batch of cases, it will indicate that so far as the Tax Appeal No.14 of 2020 is concerned, I.A. No. 698 of 2021 has been filed for condonation of delay of 55 days that has been filed only on 05.02.2021 and in other batch of cases, no steps has been taken till date to condone the delay, therefore, he has sought for time to file applications for condonation of delay. It appears that such appeals have been filed in 2020.

4. Learned counsel for the respondents submits before the Court that the appeal needs to be filed along with condonation of delay application and by the time the appeal was preferred, it was known to the appellant that the appeal is barred by delay, therefore, even if the I.A.

application is filed for condonation of delay, the same cannot be entertained.

5. Apart from the same, even though the Court has granted time but the defects pointed out by the Stamp Reporter have not been removed nor any prudent steps has been taken by the learned counsel for the Revenue to take steps for condonation of delay. Consequentially, he has contended that the appeal so filed should be rejected.

6. Having heard learned counsel for the parties and going through the records it appears that the batch of cases has been filed against the order passed by the ITAT and as such, by the time these appeals have been preferred, all have been delayed and therefore, the appeal memo having not been filed well within the time as specified which is grossly barred by limitation and the appeal memo also does not accompany the condonation of delay application so as to regularize the appeals by condoning the same, save and except, Tax Appeal No.14 of 2020 wherein I.A. No. 698 of 2021 has been filed on 05.02.2021 but thereafter, in other batch of cases, no steps have been taken till date to file condonation of delay applications.

7. Earlier also, it has been observed that time was granted to the appellant to take steps for filing the condonation of delay applications but in spite of such opportunity given, the appellant is callous to take steps for

condonation of delay by filing appropriate application in each appeal memo.

8. Apart from the same, the delay in filing the appeal without any condonation of delay application is a defective one even if the application for delay condonation is filed today that cannot cure the delay caused till date.

9. Apart from the same, it is well settled principle of law laid down by the Hon'ble Apex Court time and again if the appeal memo does not contain application of delay condonation and not filed at the time of filing of the same, then even subsequent filing of the application for condonation of delay cannot cure the defect, as such, the delay condonation application having not been filed till date in spite of the opportunity given, the delay cannot be condoned as the appeals are grossly barred by limitation.

10. The contention has been raised that during the time of COVID, these appeals have been filed in 2020. There is no dispute and even if it is filed during the time of COVID, but in the meantime, four years have passed but the Department has not taken steps for filing condonation of delay application.

11. Apart from the same, it is further contended that it involves matter of tax and revenue and if the delay will not be condoned, it will cause great prejudice to the Department.

12. We also take note of the aforesaid fact that if the Department is so conscious about the fact that the issue of tax is involved, in that case, filing a defective appeal and not taking steps for filing condonation of delay application, shifts the responsibility upon the Revenue also.

13. Consequently, this Court is not inclined to grant any further time, as such, all the appeals stand dismissed as grossly barred by limitation.

(Dr. B.R. Sarangi, C.J.)

(Sujit Narayan Prasad, J.)

Birendra/Saurabh/-