

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

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No. 1491/Hyd/2018
Assessment Years: 2013-14

MSV IT Solutions Pvt. vs. Income-tax Officer, TDS
Ltd., Hyderabad. Ward – 1(4), Hyderabad.

PAN – AAHCM6063B

Appellant

Respondent

Assessee by: Shri T. Rajendra Prasad
Revenue by: Shri Nilanjan Dey

Date of hearing: 12/11/2018
Date of pronouncement: 06/12/2018

ORDER

PER S. RIFAUR RAHMAN, AM:

This appeal filed by the assessee is directed against the orders of CIT(A) – 8, Hyderabad, dated, 24th April, 2017 for AY 2013-14.

2. Brief facts of the case are that the AO levied late fee u/s 234E of Rs. 60,400/-. Against this, the assessee preferred an appeal before the CIT(A) with a delay of 1189 days and requested for condonation of delay on the ground that there was no legal remedy of appeal u/s 246A against the impugned order at the relevant point of time. The CIT(A) did not condone the delay and not admitted the appeal of the assessee by observing as under:

"4. I have considered the submission made by the AR. From the submissions of the AR. I am constrained to note that the AR completely misconstrued and misunderstood the Issue with regard to maintainability of appeals on order u/s.200A(1). The order u/s.200A(1)

was always an appealable order as per the provisions of Section 246A(1)(a). The relevant portion of this clause was substituted by some other clauses by the Finance Act, 2015 w.e.f. 01.06.2015. It did not have any bearing on the appealability of the order u/s.200A(1)(c) wherein levy of late fee u/s.234E has been made as one of the items of adjustment. The reasons adduced by the appellant for the huge delay of more than 4 years in filing of appeal has no substance. I am, therefore, not satisfied with the appellant's explanation for not presenting the appeal within the period of limitation in terms of provisions of Section 249(3) of the Act and after a lapse of more than 4 years. Hence, the delay in filing of appeal is not condoned. Accordingly, the appeal is not admitted at the threshold stage itself."

3. Aggrieved by the order of CIT(A) the assessee is in appeal before us and raised the following grounds of appeal:

"1. The CIT appeals has erred in law and facts of the case in dismissing the case merely on the grounds of limitation rather than on the basis of merits.

2. CIT Appeals erred in confirming the order of the DCIT CPC TDS GHAZIABAD whereby fee under section 234E was levied for the periods prior to 1st June 2015 through an intimation under section 200A , even though section 200A was amended with effective from 1st June 2015 containing a reference to section 234E."

4. Considered the rival submissions and perused the material on record. Before the CIT(A), the AR of the assessee requested for condonation of delay on the ground that there was no legal remedy of appeal u/s 246A against the impugned order at the relevant point of time. However, the CIT(A) rejected the submission of the assessee and did not condone the delay and did not admit the appeal for adjudication. We are of the view that, to meet the ends of justice, we set aside the order of CIT(A) and restore the case back to his file with a direction to condone the delay and adjudicate the appeal on merits in accordance with law after providing reasonable opportunity of being heard to the assessee.

5. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 6th December, 2018.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, dated 6th December, 2018

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Copy forwarded to:

1. *MSV IT Solutions Pvt. Ltd., Plot No. 37, Silpa Brindavan, Yellamma Banda, Kukatpally, Hyderabad – 500 072*
2. *ITO, TDS, Ward – 1(4), IT Towers, AC Guards, Masab Tank, Hyd. – 500 004*
3. *CIT(A) - 8, Hyderabad*
4. *CIT (TDS), Hyderabad*
5. *The DR, ITAT, Hyderabad*
6. *Guard File*