

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC(ITA) No. 1 of 2024

Date of order: 14.03.2024

Principal Commissioner of Income Tax, Shillong vs Dhar Construction Company

Coram:

Hon'ble Mr. Justice S. Vaidyanathan, Chief Justice

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Applicant : Mr S. Chetia, Adv.

For the Respondent : Mr S. Goel, Adv.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

This application has been filed to condone the delay of 187 days in preferring the appeal against the order dated 02.01.2023 passed by the Income Tax Appellate Tribunal, Guwahati Bench, Guwahati.

2. The main reason given by the applicant in the affidavit for the delay is that due to certain circumstances, which is beyond the control of the applicant, the appeal could not be filed within time i.e., on or before 29.07.2023 as prescribed under sub-section (2) of Section 260A of the Income Tax Act.

3. Learned counsel for the applicant submits that in terms of sub-section (2) of Section 260A of the Income Tax Act, the date of

receipt of the order has to be received for the purpose of calculating the days and not the date when the order was made ready. For the sake of convenience, Section 260A (2)(a) is stated below:

“260A. Appeal to High Court.– ...

(2) The Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or an assessee aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be –

(a) filed within one hundred and twenty days from the date on which the order appealed against is received by the assessee or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.”

4. The respondent opposes the application for condonation of the delay stating that the delay has to be counted from the date when the order was made ready and not from the date of receipt of a copy of the order by the Department. According to the respondent, the delay is not 187 days but it is more than 200 days.

5. The respondent has also relied upon the paragraph Nos. 2 and 3 of the application to contend that there is a difference between an explanation and an excuse. Even if the delay is short, the reasons given by the applicant are not genuine and where the delay is not properly explained, the application can be rejected.

6. After hearing both the parties, we find that the reasons given by the applicant is unacceptable and the delay cannot be condoned

without imposition of costs upon the applicant. Hence, we direct the applicant to pay costs of Rs. 10,000 (Rupees ten thousand only) to the Shillong Bar Association within a period of two weeks from the date of receipt of this order and on production of the receipt, Registry is directed to diarise the appeal if it is otherwise in order.

7. List the appeal for admission on 10.04.2024.

(W. Diengdoh)
Judge

(S. Vaidyanathan)
Chief Justice

Meghalaya
14.03.2024
"Sylvana PS"