

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Income Tax Appeal No.212 of 2014 (O&M)
Date of Order: 07.10.2014

Commissioner of Income Tax, Faridabad

..Appellant

Versus

Sanjay Kumar

..Respondent

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Tejinder K. Joshi, Advocate,
for the appellant.

RAJIVE BHALLA, J (Oral)

C.M.No.14680-CII of 2014

Prayer in this application is to condone delay of 766 days
in re-filing the appeal.

We have heard counsel for the appellant and as sufficient
cause has been shown, allow the application and condone the delay
of 766 days in re-filing the appeal.

C.M.No.14681-CII of 2014

Allowed as prayed for.

Income Tax Appeal No.212 of 2014

The revenue is before us challenging orders dated
17.03.2011 (Annexure A-II) and 22.07.2011 (Annexure A-III), passed
by the CIT(A) and the Income Tax Appellate Tribunal, Delhi Bench
'G', New Delhi, respectively.

Counsel for the revenue submits that the CIT(A) had no
jurisdiction to grant stay much less to direct payment of the demand

raised against an assessee, in installments. It is further contended that howsoever equitable may be the relief granted by the CIT(A), the fact that Section 251 of the Income Tax Act, 1961, does not confer any power upon the CIT(A) to entertain an application for stay, much less to order payment, in installments, the question that the CIT(A) has no jurisdiction to grant stay may be answered in favour of the revenue.

We have heard counsel for the revenue. Apart from the fact that the question has been rendered academic as the assessee has already deposited the amount in installments, we are inclined to agree with the view adopted by the Allahabad High Court in **Prem Parkash Tripathi v. Commissioner of Income-tax, [1994] 208 ITR 0461**, the Madras High Court in **Paulsons Litho Works v. Income-tax Officer, [1994] 208 ITR 0676** and the Rajasthan High Court in **Maheshwari Agro Industries v. Union of India [2012] 346 ITR 0375**, that inherent in the power of appeal is a power to grant interim relief on such terms and conditions and upon such consideration as may meet the parameters of a judicial/quasi judicial order.

In this view of the matter, finding no merit in the appeal, we answer the question against the revenue and dismiss the appeal.

**(RAJIVE BHALLA)
JUDGE**

**October 07, 2014
nt**

**(AMIT RAWAL)
JUDGE**