IN THE INCOME TAX APPELLATE TRIBUNAL
"H" Bench, Mumbai
Before S/Shri B.R.Baskaran (AM) & Amarjit Singh (JM)

I.T.A. No. 2052/Mum/2017 (Assessment Year 2007-08)

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| K.M. Dastur Reinsurance Brokers Private Limited<br>Cambata Building, 42<br>Maharashi Karve Road<br>Mumbai-400 020.<br><br>PAN : AAACK2826M | Vs. | DCIT 1(2)(1)<br>5th Floor<br>Aayakar Bhavan<br>M.K. Road<br>Mumbai-400 020. |
| (Appellant) | | (Respondent) |

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| Assessee by | Shri Hiten Vasant |
| Department by | Shri Manoj Kumar Singh |
| Date of Hearing | 29.10.2018 |
| Date of Pronouncement | 29.10.2018 |

O R D E R

Per B.R. Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 9.12.2010 passed by the learned CIT(A)-2, Mumbai and it relates to A.Y. 2007-08. The assessee is aggrieved by the decision of the learned CIT(A) in not giving direction to the Assessing Officer to exclude income in A.Y. 2008-09 & 2010-11 since income so offered in those years have been assessed in the year under consideration namely A.Y. 2007-08. The appeal is barred by limitation by 2033 days.

2. We have heard the partisan perused the record. The assessee company is a broker for direct insurance and reinsurance business. During the course of assessment proceedings, the Assessing Officer issued notice u/s.133(6) of the Act to various insurance companies asking for copy of accounts of the assessee as appearing in their books. The Assessing Officer compared brokerage income declared by the assessee with the information furnished by the insurance companies and noticed that the assessee has understated the

income to the extent of ₹ 30.08 lakhs. Hence the Assessing Officer assessed the same as income of the assessee.

3. In the appellate proceedings, the assessee submitted that it had offered above said income of Rs.30.08 lakhs in the subsequent years on receipt basis. Since the assessee is following mercantile system of accounting, the learned CIT(A) took the view that the assessee should have offered income in the year of accrual and accordingly confirmed the addition of ₹ 30.08 lakhs made by the Assessing Officer in AY 2007-08.

4. The assessee accepted the order passed by the learned CIT(A) under the impression that income offered by it on receipt basis in A.Y. 2008-09 and 2010-11 shall be excluded by the Assessing Officer after the order passed by the learned CIT(A) for A.Y. 2007-08. Since the Assessing Officer did not give relief to the assessee in A.Y. 2008-09 & 2010-11, the assessee has preferred this appeal against the order passed by the learned CIT(A) for A.Y. 2007-08 with a delay of 2033 days.

5. The assessee has filed an affidavit explaining the delay, wherein it was mainly stated that the appeal has been filed since the learned CIT(A) should have given direction to the Assessing Officer to exclude income that were offered in A.Y. 2008-09 and 2010-11 on receipt basis.

6. We heard the parties and perused the record. First of all, we do not find any merit in the reasons furnished by the assessee for condoning the delay. Grievance of the assessee is that the Ld CIT(A) should have directed for exclusion of income offered by it in the subsequent years on receipt basis. It is not stated in the petition that the assessee had sought for any such direction from the Ld CIT(A). The Ld A.R also submitted that the assessee has not so far moved any petition before the AO/Pr. CIT for addressing its grievance. Hence the cause of action for the same does not arise before the Tribunal in the present appeal. Next, we noticed that the assessee do not have any grievance

on the order passed by the learned CIT(A) for A.Y. 2007-08 and hence on this ground also appeal of the assessee is liable to be dismissed.

7. In view of the forgoing, we dismiss the appeal in limine.

8. In the result, appeal filed by the assessee is dismissed.

Order has been pronounced in the Court on 29.10.2018.

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| SD/- | SD/- |
| (AMARJIT SINGH) | (B.R. BASKARAN) |
| JUDICIAL MEMBER | ACCOUNTANT MEMBER |

Mumbai; Dated : 29/10/2018

<u>Copy of the Order forwarded to</u> :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

BY ORDER,

//True Copy//

(Senior Private Secretary)
ITAT, Mumbai

*PS*