

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH : KOLKATA

[Before Hon'ble Shri S.S. Godara, JM & Shri M.Balaganesh, AM]

I.T.A No. 249/Kol/2018

Assessment Year : 2012-13

J. Sasi Kumar
[PAN: ALIPK 2047 B]
(Appellant)

-vs-

DCIT, Port Blair
(Respondent)

For the Appellant : Shri Akkal Dudhwewala, FCA

For the Respondent : Shri P.K. Srihari, CIT

Date of Hearing : 02.05.2018

Date of Pronouncement : 04.05.2018

ORDER

Per M.Balaganesh, AM

1. This appeal by the assessee arises out of the order of the Learned Commissioner of Income Tax(Appeals)-1, Kolkata [in short the Id CIT(A)] in Appeal No. 1423/CIT(A)-1/P.B./2015-16 dated 30.11.2017 against the order passed by the DCIT, Circle-3(2), Port Blair [in short the Id AO] under section 143(3) of the Income Tax Act, 1961 (in short "the Act") dated 20.03.2015 for the Assessment Year 2012-13.

2. At the outset, we find that the Ld. CIT(A) had not admitted the appeal due to delayed filing of appeal by 139 days before him by the assessee. Accordingly, he had dismissed the appeal in limine. Before us the assessee had raised the first ground by stating that the Ld. CIT(A) had considered the delay in filing the appeal before him as 139 days as

against the actual delay of only 11 days. In this regard, the ld. AR argued that the assessment for the assessment year 2012-13 was completed u/s 143(3) of the Act on 20.03.2015. The appeal before the Ld. CIT(A) was preferred by the assessee on 20.05.2015 with a delay of 11 days. The assessee had also filed a delay condonation petition along with form 35 before the Ld. CIT(A) adducing the reason for the delay of 11 days due to his illness and consequentially he had to be in bed rest. We find that the Ld. CIT(A) had somehow considered the delay as 139 days in his order. Accordingly, the Ld. CIT(A) had not admitted the appeal of the assessee and dismissed the same in limine. We find that there is a factual error committed by the Ld. CIT(A) in reckoning the number of days of delay at 139 days as against the actual delay of only 11 days. We find that the assessee had given proper explanation for the delayed filing of appeal before the Ld. CIT(A) by 11 days. Accordingly, we are inclined to condone the said delay in filing of appeal before the Ld. CIT(A). Since the Ld. CIT(A) had no occasion to address the grounds raised by the assessee on merits, we deem it fit and appropriate in the interest of justice and fair play, to set aside this appeal to the file of the Ld. CIT(A) for adjudication of the various grounds raised by the assessee on merits and pass a fresh order thereon. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

3. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 04.05.2018

Sd/-

[S.S. Godara]
Judicial Member

Sd/-

[M.Balaganesh]
Accountant Member

Dated : 04.05.2018
SB, Sr. PS

Copy of the order forwarded to:

1. J. Sasi Kumar, 198, M.G. Road, Junglighat, Port Blair-744103
2. DCIT, Port Blair, MB-210, Shadipur, Port Blair, Andaman & Nicobar Islands, Pin-744101.
- 3..C.I.T.-
4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Senior Private Secretary
Head of Office/D.D.O., ITAT, Kolkata Benches