

IN THE INCOME TAX APPELLATE TRIBUNAL,
GUWAHATI BENCH, E-COURT AT KOLKATA
BEFORE SHRI A.T, VARKEY, JM & DR. A.L. SAINI, AM

ITA No.234/Gau/2018
(Assessment Year: 2014-15)

Shri Pradip Kr. Tibrewal PAN: ADITP 1319A	Vs.	The DCIT, Circle-Tezpur
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Appellant by : None
Revenue by : Shri Sandeep Sengupta, JCIT, Id. Sr.DR

सुनवाई की तारीख / Date of Hearing : 13/05/2019
घोषणा की तारीख/Date of Pronouncement: 12/06/2019

आदेश / O R D E R

Per Dr. A. L. Saini, AM:

The captioned appeal filed by the assessee , pertaining to assessment year 2014-15, is directed against the order dated 27-07-2018 passed by the Id. Commissioner of Income Tax (Appeal), Guwahati-1, Guwahati, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143 of the Income Tax Act, 1961 (in short the 'Act') dated 26.10.2016.

2. Grounds of appeal raised by the assessee are as follows:-

1. That the learned C IT (A) erred in dismissing the Appeal without observing the rule of law of natural justice then such order is liable to be cancel.

2. That the learned CIT (A) erred for passing the Ex-Parte Appeal Order without providing the sufficient, reasonable and actual opportunity to the humble Appellant. As such the same is liable to be set aside.

3. That in the facts and circumstances of the case, the learned CIT (A) is wrong and unjust in upholding the addition of Rs. 16,12,656/- U/s.

40(A) (3) and partial disallowance of Rs. 92,500/- in Travelling & Conveyance expenses on arbitrary and baseless grounds.

4. That any other ground/s, if found worth submitting, shall be submitted at time of the hearing.

3. At the time of hearing none appeared on behalf of assessee in spite of issuance of notice for hearing more than one occasions. The learned Departmental Representative (Id.DR) was present for the appellant revenue. In the absence of any appearance of the assessee, the appeal is being disposed of ex parte qua the assessee after hearing the Id. DR for the revenue on merits in terms of Rule 24 of ITAT Rules, 1963.

4. We have heard the Id. DR and perused the materials available on record.

5. On perusal of record, we find that the assessee's issue in hand is squarely covered by the judgment of Co-ordinate Bench, ITAT, Delhi in the case of Shri Gurinder Singh Dhillon Vs. ITO, Ward 15(4), New Delhi in ITA No. 6595/Del/2016 for the A.Y 2013-14, wherein the Tribunal held as follows:-

“8. We have considered the submissions of both the parties and carefully gone through the material available on record. In the present case, it is an admitted fact that the assessee filed the appeal before the Id. CIT (A) manually within time as per the old provisions. Later, on, the manner of furnishing the appeal in Form No.35 before the Id. CIT (A) was amended vide Notification No.5/2016 dated 06.04.2016 and the procedure was laid down. Thereafter, the CBDT extended the period for filing the appeal electronically to 15.06.2016 and the assessee filed the appeal electronically on 08.10.2016. In the present case, the earlier appeal filed by the assessee manually on 18.04.2016 was well within time. We, therefore, considering the totality of the facts, direct the Id. CIT (A) to decide the appeal of the assessee on merits after condoning the delay, if any', in filing the appeal electronically since it was the first year when the provisions for filing the appeal were changed and it was directed to file electronically, the hardship faced by the assessee was also explained before the Id. CIT (A) which is mentioned in para 3.1 of the impugned order that the delay was

occasioned due to technical issue and lack of knowledge regarding the duly introduced e-filing procedure. In view of the aforesaid discussion, we set aside the impugned order and direct the Id. CIT (A) to decide the appeal of the assessee on merits after condoning the delay, if any, by providing due and reasonable opportunity of being heard to the assessee.”

6. Since the issue is squarely covered by the said judgment of the Co-ordinate Bench, ITAT, Delhi in the case of Shri Gurinder Singh Dhillon (supra) and there is no change in facts and law and the Id. DR for the revenue has failed to bring any material to controvert the findings of the Co-ordinate Bench, ITAT, Delhi, we set aside the impugned order of the Id. CIT(A) and direct him to decide the appeal of assessee on merits after condoning the delay, if any, by providing due and reasonable opportunity of being heard to the assessee. For statistical purposes, the appeal of the assessee is treated as allowed.

7. In the result, the appeal of the assessee is allowed for statistical purposes. Order pronounced in the open court on this 12/06/2019.

Sd/-
(A.T. Varkey)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(A. L. Saini)

लेखा दस्य/ACCOUNTANT MEMBER

कोलकाता /Kolkata;

Dated: 12/06/2019

*PP, Sr.PS

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- Shri Pradip Kumar Tibrewal C/o Sri P.C Bothra, Advocate, Opp: Nehru Maidan, Tezpur-784001.
2. प्रत्यर्थी / The Respondent.- Deputy Commissioner of Income-tax, Circle- Tezpur, Tezpur.
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Gauhati
6. गार्ड फाईल / Guard file.

//True Copy//

By Order

Assistant Registrar/Sr.PS

I.T.A.T, Kolkata Benches, Kolkata