

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
BENCH 'G', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No. 1099/Del/2020  
(Assessment Year : 2013-14)

M/s. Solemn Jewellers Pvt. Ltd., 4284, Main Bazar, Pahar Ganj, New Delhi-110 055  PAN No. AAPCS 7005 M <b>(APPELLANT)</b>	Vs.	ITO Ward – 24(1) New Delhi  <b>(RESPONDENT)</b>
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Assessee by	--None--
Revenue by	Shri Anil Kumar Sharma, Sr. D.R.

Date of hearing:	11.11.2021
Date of Pronouncement:	24.11.2021

**ORDER**

**PER ANIL CHATURVEDI, AM:**

This appeal filed by the assessee is directed against the order dated 15.02.2019 of the Commissioner of Income Tax (Appeals) – 8, New Delhi relating to Assessment Year 2013-14.

2. The relevant facts as culled from the material on records are as under :

3. Assessee is a company stated to be engaged in the business of Jewellery. Assessee filed its return of income for A.Y. 2013-14 on 26.09.2013 declaring total income at Rs.29,60,580/-. The case was selected for scrutiny and thereafter assessment was framed under section 143(3) of the Act vide order dated 30.03.2016 and the total income was determined at Rs.1,42,72,813/-. Aggrieved by the order of the AO assessee carried the matter before CIT(A) who vide order dated 15.02.2019 in Appeal No.10367/16-17 dismissed the appeal of the assessee. Aggrieved by the order of CIT(A), assessee is now in appeal and has raised following grounds:

1. *I, M/s. Solemn Jewelers' Pvt. Ltd. Identified by PAN No. AAPCS 7005 M, present residing at address at address 4284, main bazaar pahar ganj, and Delhi 110055, do solemnly affirm and state on oath as under.*
2. *That I received an intimation for the assessment year 2013/14 under section 143(1) of the income tax Act 1961 on dated 30.03.2019.*
3. *That as per the said intimation. I found that my returned income has been enhanced by Rs.1,42,72,813/- and consequential demand of Rs.51,20,660/- has been made against me.*
4. *That I was advised by my legal consultant that the said intimation is factually incorrect and an application for rectification under section 154 shall be filed.*
5. *That I was advised by the legal consultant to file an appeal before the Hon'ble ITAT for relief but the appeal has already become*

*barred by the limitation nevertheless the appeal was filed before this hon'ble ITAT on dated 01.03.2020. Accompanied by an application for condonation of delay as provided under section 5 of the LIMITATION ACT, 1963.*

6. *That in this way there is a delay of 12 months for which an application under section 5 of the limitation act has been filed along with memorandum of appeal.*
7. *That delay in filing the appeal is because of a genuine belief of the application of a particular provision of the income tax act 1961 which was not accepted by the original authority.*
8. *That I have no intention to jeopardize the interest of the revenue by delaying the filing the appeal.”*

4. The case file reveals that there is delay in filing present appeal and is time barred for 365 days. Assessee has filed an application for condonation explaining the reason for delay. Considering the reasons stated by the assessee in the condonation application, we are of the view that the delay in filing the appeal needs to be condoned and accordingly condone the delay.

5. On the date of hearing none appeared on behalf of the assessee but however an application for adjournment was moved by the AR vide letter dated 10.11.2021. The case file reveals that assessee had filed an application for early hearing before the Tribunal and pursuant to the request of assessee, the assessee was granted out of turn hearing and at that time itself, the date of hearing was intimated. In view of the aforesaid facts and in the absence of any representation from the side of the assessee, we

proceed to dispose of the appeal *ex-parte* qua the assessee after considering the submissions of the DR.

6. Before us, Learned DR supported the order of AO and further submitted that despite of various opportunities granted by the CIT(A) there was no appearance from the side of the assessee and in such a situation, CIT(A) passed the order which needs to be upheld.

7. We have heard the Learned DR and perused the material available on record. The perusal of CIT(A) order reveals that CIT(A) has passed an ex parte order without deciding the issue on merits. Sub Section (6) of Section 250 of I. T. Act mandate the CIT(A) to state the points in dispute and thereafter assign the reasons in support of his conclusion. We are of the view that by dismissing the appeal without considering the issue on merits, Learned CIT(A) has failed to follow the mandate required in Sub Section (6) of Section 250 of the Act. Further it is also a well settled principle of natural justice that sufficient opportunity of hearing should be offered to the parties and no parties should be condemned unheard. In view of these facts, we set aside the impugned order of CIT(A) dated 15.02.2019 and restore the issue to the file of CIT(A) for re-adjudication of the issues after granting sufficient opportunity of hearing to the assessee. Assessee is also directed to furnish the details called for by the lower authorities. In view of our decision to restore the issue to CIT(A), we are not

adjudicating on merits the grounds raised by the assessee. Thus the ground of assessee is allowed for statistical purposes.

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

**Order pronounced in the open court on 24.11.2021**

**Sd/-  
(SUDHANSHU SRIVASTAVA)  
JUDICIAL MEMBER**

**Sd/-  
(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

Date:- 24.11.2021  
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**Copy forwarded to:**

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI