

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA BENCH "A", KOLKATA**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.440/Kol/2020
Assessment Year: 2017-18**

Polo Setco Tie-Up (P) Ltd 86C, 4 th Floor, Vishwakarma Building, Topsia Road South West Block, Kolkata-700046. PAN: AABCP788OR	Vs.	DCIT, Circle-11(1), Kolkata
(Appellant)		(Respondent)

Present for:

Appellant by : None

Respondent by : Shri Amol Kamat, CIT-DR.

Date of Hearing : 21.12.2021

Date of Pronouncement : 02.02.2022

ORDER

PER RAJESH KUMAR, ACCOUNTANT MEMBER:

The present appeal has been preferred by the assessee against the order passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act') by the Commissioner of Income Tax(Appeals)-4, Kolkata (hereinafter referred as the 'CIT(A)') relevant to A.Y 2017-18.

2. At the time of hearing, when the case was called for hearing, neither the assessee nor his authorized representative appeared to attend the hearing nor any application seeking adjournment was filed, therefore, we proceed to dispose of the appeal ex parte after hearing the Ld. DR and after considering the merits of the case.

3. After hearing the Ld. DR and perusing the facts on record, we find in this case that the appeal of the assessee was dismissed by the Ld. CIT(A) on the ground that

the assessee has not explained the delay of one(1) day in filing the appeal and thus delay has not been condoned. Thus the appeal of the assessee has been dismissed by the First Appellate Authority for the delay of only one (1) day which, in our opinion, is not fair and in accordance with the principle of natural justice as the technicality should not prevail over the substantive justice. Therefore, in the interest of justice and fair play, we deem it fit to condone the delay and restore the appeal back to the file of the Ld. CIT(A) with the direction to decide the same on merit after affording reasonable opportunity to the assessee.

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

Order pronounced in the open court on 02.02.2022.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Kolkata, Dated: 02.02.2022.
RS

Copy to: The Appellant
The Respondent
The CIT, Concerned, Kolkata
The CIT (A) Concerned, Kolkata
The DR Concerned Bench

//True Copy//

By Order

Sr. Private Secretary/DDO
ITAT, Kolkata Benches, Kolkata