

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. C.N. PRASAD, JUDICIAL MEMBER  
(THROUGH VIDEO CONFERENCING)**

ITA No. 7936/Del/2018  
Assessment Year: 2012-13

<b>Sh. Bharat Anand 1, Jaipur Estate, Nizamuddi East, New Delhi-110013 PAN No.AKYP A2495D (APPELLANT)</b>	<b>Vs</b>	<b>ACIT Circle – 61 (1) New Delhi (RESPONDENT)</b>
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Appellant by	Sh. Brij Kishore Anand, CA
Respondent by	Sh. Manu Chaurasia, Sr. DR

Date of hearing:	10/03/2022
Date of Pronouncement:	10/03/2022

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal filed by the assessee is preferred against the order of the CIT(A)-20, New Delhi dated 28.09.2018 pertaining to A.Y.2012-13.

2. The solitary grievance of the assessee is that the CIT(A) erred in dismissing the appeal as “not valid” and beyond time without fully appreciating the facts of the case.

3. Briefly stated the facts of the case are that the assessment was framed u/s.143(3) of the Act order dated 27.03.2015 wherein the returned income of Rs.87,34,870/- was assessed at Rs. 16466870/- after making a disallowance of Rs.77,32,000/-.

4. Assessee filed appeal before the CIT(A). On perusal of form No.35 the CIT(A) found that the appeal filed by the assessee is barred by limitation though the assessee has shown no delay.

5. Assessee was asked to explain the same. In response the assessee stated that the assessment order has not been served on the assessee inspite of various request made by the assessee. The CIT(A) called for report from the AO and the AO replied as under :-

*“The assessment folder of the above mentioned case has closely been examined. On examination, it is found that no such letter dated 02.11.2015 vide which appellant requested to give copy of*

*assessment order, was received in this office. Hence, the claim of the assessee did not found to be true. Further, since the letter dated 02.11.2015 from the assessee was not received, the copy of assessment order for A. Y. 2012-13 was not provided by the then AO."*

6. Basis the above the CIT(A) dismissed the appeal being barred by limitation.

7. Before us the counsel for the assessee vehemently stated that the reply of the AO is factually incorrect as the assessee did make an application. The counsel drew our attention to the application dated 02.11.2015 and pointed out that the same was filed with the office of the AO.

8. Per contra the DR strongly supported the findings of the CIT(A).

9. We have carefully considered the orders of the authorities below. The CIT(A) dismissed the appeal on the report of the AO who stated that no letter dated 02.11.2015 was filed by the assessee requesting to give copy of the Assessment Order. However, we find that the following letter was filed by the assessee which bears stamp of the office of AO.

2nd November 2015

Asst. Commissioner of Income Tax,  
Circle 61(1),  
New Delhi

PAN: AKYPA2495D

Dear Sir,

**Re: Shri Bharat Anand – Asst. Year 2012-13**  
**Non- Receipt of Assessment Order &**  
**Notice of Demand**

In respect of the aforesaid proceedings we have to state that we have received an order levying penalty u/s 271(1)(c) of the Act for A.Y. 2012-13. Apparently the penalty has been levied on basis of disallowance made out of the expenses claimed against the professional income as per return filed by the assessee. However, the assessee neither received a copy of the assessment order or a notice of demand. After having received the said penalty order, the undersigned, who attends to the tax matters of the assessee, visited your office. It was informed that the assessment order was sent by Speed Post vide consignment No: ED 515115167 IN dated 30<sup>th</sup> March 2015. However, on tracking the said document on-line on the internet it transpired that the consignment details are not found. We enclose copy of the tracking summary report as downloaded from the internet.

In the circumstances we request that a fresh set of assessment order and notice of demand be served on the assessee so that he in a position to verify the correctness of the order framed and the demand raised. We also request that the assessee may not be treated in default in any manner as no valid notices have been served on him in this regard.

Thanking you.

Yours faithfully,

  
(B.K. Anand)

फाइल नं./ASK No: 712021115080501  
दि.गिन व/Date/A.Y: 02-11-2015/2012-13  
पैन / PAN: AKYPA2495D  
नाम: BHARAT ANAND  
CIRCLE 61(1), DELHI

10. A perusal of the above letter clearly show that the assessee did make a request for the copy of the Assessment Order.

Therefore, in the interest of justice and fair play we restore this appeal to the files of the CIT(A). The CIT(A) is directed to decide the appeal afresh on merits of the case after giving a reasonable opportunity of being heard to the assessee.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

12. The order is pronounced in the open court on 10.03.2022 in the presence of both the rival representatives.

Sd/-  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**

\*NEHA\*

Date:- 10.03.2022

Copy forwarded to:

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

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	10.03.2022
Date on which the final order is uploaded on the website of ITAT	10.03.2022
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	