

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, KOLKATA

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND SHRI SONJOY SARMA, JUDICIAL MEMBER

I.T.A. No.603/Kol/2020
Assessment Year: 2012-13

M/s. Moonnight Commercial Pvt. Ltd. C/o. Agarwal Viswanath & Associates 133/1/1A, S.N. Banerjee Road Pushkal Bhawan 3 rd Floor Kolkata - 700013 PAN : AAICM4594L	Vs	Income Tax Officer, Ward-1(2), Kolkata
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri K.K. Goswami, Advocate
Revenue by :	Shri Jayanta Khanra, JCIT

सुनवाई की तारीख/Date of Hearing : 19/05/2022
घोषणा की तारीख /Date of Pronouncement: 23/05/2022

आदेश/O R D E R

PER MANISH BORAD, ACCOUNTANT MEMBER :

The present appeal is directed at the instance of the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-17, Kolkata (hereinafter the “ld. CIT(A)”), dt. 03/09/2019, passed u/s 250 of the Income Tax Act, 1961 (“the Act”), for Assessment Year 2012-13.

2. There is a delay of 391 days in filing of the appeal by the assessee. After perusing the petition for condonation for delay, we are convinced that the assessee was prevented by sufficient cause in filing the appeal in time. Hence, we condone the delay and admit this appeal.

3. After perusing the order passed by the Id. CIT(A), we find that the assessee has not appeared before the Id. CIT(A) and hence an *ex-parte* order was passed dismissing the appeal of the assessee. We find that the Id. CIT(A) has not disposed off the case on merits. This is not permissible in law. Hence, we deem it fit to restore the issue to the file of the Id. CIT(A), for fresh adjudication, in accordance with law, after giving the assessee adequate opportunity of being heard, on the grounds of violations of the principles of natural justice.

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

Order pronounced in the Court on 23rd May, 2022 at Kolkata.

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Kolkata, Dated 23/05/2022

SC Sarma

Sd/-

**(MANISH BORAD)
ACCOUNTANT MEMBER**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata