

आयकर अपीलीय अधिकरण
मंबई पीठ "एस एम सी "
श्री विकास अवस्थी. न्यायिक सदस्य एवं
श्री एम बालगणेश, लेखाकार सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC ", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
आअसं. 332/मुं/2022 (नि.व. 2014-15)
ITA NO. 332/MUM/2022(A.Y.2014-15)

Jyoti Ajay Bankda,
4301, B Wing, DB Woods,
Gokuldham, Goregaon (East)
Mumbai 400 063.

PAN: ADHPB-2855-N

..... अपीलार्थी /Appellant

बनाम Vs.

ITO-WARD 24(2),
Piramal Chambers,
Mumbai – 400 012.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Anuj Kisnadwala

प्रतिवादी द्वारा/Respondent by : Shri Hiren Bhat

सुनवाई की तिथि/ Date of hearing : 14/07/2022

घोषणा की तिथि/ Date of pronouncement : 14/07/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals) National Faceless Appeal Centre, Delhi (in short 'the CIT(A) ') dated 16/12/2021, for the assessment year 2014-15.

2. The appeal is time barred by eight days. The Id. Authorized Representative for the assessee submitted that the appeal was filed online on 10/02/2022 i.e. within the period of limitation. However, physical copy of Form No.36 accompanied by grounds of appeal and the impugned order was

filed on 22/02/2022. The Id. Authorized Representative for the assessee submitted that 8 days delay in filing of physical Form -36 may kindly be condoned in the light of extra ordinary circumstances caused by COVID-19 Pandemic. The Revenue raised no serious objection in condonation of delay. Taking into consideration entirety of facts the 8 days delay in filing of the appeal is condoned and the appeal is admitted to be heard on merits.

3. Shri Anuj Kisnadwala appearing on behalf of the assessee submitted at the outset that the CIT(A) has passed the impugned order in an ex-parte proceedings. The Id. Authorized Representative of the assessee submitted that the first notice of appeal was issued to the assessee by CIT(A) on 28/12/2020 for the hearing fixed on 29/12/2020. The assessee could not make submissions/appear before CIT(A) at a short notice of one day. Thereafter, the CIT(A) issued notice on 14/09/2021 for hearing fixed on 21/09/2021. The assessee filed letter seeking adjournment to furnish written submissions. Thereafter, the appeal was adjourned to 10/12/2021. On the said date the assessee sought adjournment as the assessee was in the process of finalizing written submissions to be submitted before the CIT(A). The assessee wanted to placed on record certain judgments to substantiate her submissions, therefore, a short adjournment was sought. The CIT(A) without affording further opportunity to the assessee dismissed the appeal in an ex-parte proceedings. The Id. Authorized Representative of the assessee prayed that if an opportunity is granted to the assessee to make submissions before CIT(A), the assessee would be able to make out a case in her favour. The Id. Authorized Representative of the assessee prayed for restoring the appeal to the First Appellate Authority.

4. Shri Hiren Bhat vehemently defended the impugned order and prayed for dismissing the appeal of assessee. The Id.Departmental Representative submitted that the CIT(A) had granted sufficient opportunity of hearing to the assessee, however, the assessee failed to comply with the notices issued by the CIT(A).

5. We have heard the submissions made by rival sides and have examined the orders of authorities below. The CIT(A) had afforded two effective opportunities of hearing to the assessee. On both the occasions the assessee sought adjournment. Thereafter, the CIT(A) without granting further time to the assessee dismissed the appeal on merits. Taking into consideration entire facts of the case , without commenting on merits of the issue, we deem it appropriate to restore this appeal back to the file of CIT(A) for denovo adjudication after affording reasonable opportunity of hearing / for making submissions to the assessee, in accordance with law.

6. The assessee is directed to file submissions/ appear before the CIT(A) upon service of notice, without fail.

7. The impugned order is set-aside and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Thursday the 14th day of July, 2022.

Sd/-

(M. BALAGANESH)

लेखाकार सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 14/07/2022

Vm, Sr. PS(O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
Sr.Private Secretary
ITAT, Mumbai