

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष**

**Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member**

**I.T.A Nos.279,280&281/Kol/2022**  
**Assessment years: 2009-10, 2010-11 & 2011-12**

**Rheabari Tea Company (P) Ltd..... Appellant**  
**C/o Subash Agarwal & Associates,**  
**Advocates, Siddha Gibson,**  
**1, Gibson Lane, Suite 213,**  
**2<sup>nd</sup> Floor, Kolkata- 700069.**  
**[PAN: AABCR3287Q]**

**vs.**

**DCIT, Circle-4(2), Kolkata..... Respondent**

**Appearances by:**

Shri Siddharth Agarwal, Advocate, appeared on behalf of the appellant.

Shri Vijay Kumar, Addl. CIT, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 10, 2022

Date of pronouncing the order : October 12, 2022

**आदेश / ORDER**

**Per Bench:**

The captioned appeals filed by the assessee are directed against the separate orders of even date 23.03.2022 of the National Faceless Appeal Centre [hereinafter referred to as the 'CIT(A)] for different assessment years. Since the sole and common issue involved in all the three appeals is relating to the dismissal of these appeals by the CIT(A) holding the same being barred by limitation period, hence, all these appeals have been heard together and are being disposed off by this common order. The assessee's appeal ITA No.279/Kol/2022 is taken as the lead case.

2. At the outset, the Id. Counsel for the assessee has invited our attention to the impugned order of the CIT(A) to submit that the Id. CIT(A) has dismissed the appeal of the assessee in limine holding that the same was barred by limitation. The Id. Counsel has further invited our attention to para 4.3 of the order of the CIT(A) to submit that the

Id. CIT(A) has noted that the assessee has not filed any details whereas all the details were furnished on time to the CIT(A)/National Faceless Appeal Centre. The Id. Counsel has submitted that the Id. CIT(A) wrongly noted that the assessment order dated 05.12.2016 was supplied to the assessee on the same date i.e. 05.12.2016, whereas, in fact the said order was served upon the assessee on 10.02.2017 and hence the appeals before the CIT(A) were filed within the prescribed limitation period. The Id. Counsel has invited our attention to the affidavit of the director of the assessee company placed on record, the contents of which, for the sake of ready reference, are reproduced as under:

*I, Ashok Kumar Bansal, working for gain at 4, Chittaranjan Avenue, Hindusthan Building, 2<sup>nd</sup> Floor, Chandni Chowk, Kolkata - 700072, aged 63 years do hereby solemnly affirm and state as under-*

*1. That I am one of the directors of M/s Rheabari Tea Company Pvt. Ltd. (PAN: AABCR3287Q) and, as such, I am competent to swear this affidavit on behalf of the said company (hereinafter referred to as the assessee-company).*

*2. That the reassessment order for A. Y.: 2009 - 2010 passed u/s. 143(3)/147 dated 05.12.2016 was physically served upon the assessee on 10.02.2017 and the said date was mentioned on the top of the notice of demand issued u/s. 156 by the receiving official of the company. Accordingly, the said date was mentioned in Form No. 35 uploaded in the system on behalf of the assessee company on 11.03.2017.*

*3. That pursuant to notice of hearing received by the assessee Company by the National Faceless Appeal Centre (NFAC, Delhi), the assessee company uploaded the written submissions along with relevant documents on 27.08.2021 in the income tax portal.*

*Copy of the screen-shot of the portal evidencing submission of written submissions etc. is attached and marked as Annexure: A.*

*4. That, as regards the query raising by the CIT(A) as to the date of service of the assessment order, the assessee company sought adjournment on 09.03.2022 to resolve the discrepancies in the date of service of assessment order and the maximum time allowable by the portal of 15 days (i.e., upto 23.03.2022) was sought. It is stated that various notices issued in 2021 fixing hearing before CIT(A) could not be complied with properly due to covid pandemic.*

*Copy of the relevant screen-shot is attached and marked as Annexure: B.*

*5. That the assessee company deputed its authorized representative to approach the jurisdictional A.O. to resolve the discrepancy in the service of the assessment order. He was informed that records for the relevant year were not traceable.*

6. That the facts stated in para 1 to 5 are true to the best of my knowledge.”

3. In view of the above submissions further corroborated with the affidavit of the assessee, we deem it fit to condone the delay in filing the appeals before the CIT(A). We order accordingly. The impugned orders of the CIT(A) are, therefore, hereby set aside and the matter is restored in all the three appeals to the file of the CIT(A) for decision afresh on merits treating these appeals as filed within the limitation period. Needless to say that the CIT(A) will give proper opportunity to the assessee to present its cases.

4. In the result, all the three captioned appeals of the assessee are treated as allowed for statistical purposes.

**Kolkata, the 12<sup>th</sup> October, 2022.**

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 12.10.2022.

RS

*Copy of the order forwarded to:*

1. Rheabari Tea Company (P) Ltd
2. DCIT, Circle-4(2), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches