

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,
NEW DELHI

BEFORE SMT DIVA SINGH, JUDICIAL MEMBER

ITA No. 1352/DEL/2017 [A.Y 2012-13]

M/s Nitin Educational Society Vs. The Income tax Officer
C/o Sarvodaya Sr. Sec School Village [Exemption]
Dhindara Tehsil, Tauru Distt Faridabad
Mewat, Haryana

PAN: AABTN 1677 P

Assessee By : None

Department By : Shri Om Prakash, Sr. DR

Date of Hearing : 25.10.2022
Date of Pronouncement : 26.10.2022

ORDER

The present appeal has been filed by the assessee wherein the correctness of the order dated 15.12.2016 of CIT(A)-2 Gurgaon pertaining to 2012-13 assessment year is assailed on various grounds.

2. However, at the time of hearing, none was present for and on behalf of the assessee. However, an application requesting adjournment was moved.

3. Considering the fact that the impugned order is an ex parte order wherein the appeal of the assessee is dismissed for non -representation, it was deemed appropriate to proceed with the present appeal ex parte qua the appellant-assessee on merits.

4. The ld Sr. DR was required to support the order passed.

5. The record shows that before the ld. CIT(A), adjournment applications were moved. However, on 10.11.2016, the assessee failed to appear leading to the dismissal of the assessee's appeal relying upon the decision of the Hon'ble Apex Court in the case of B.N. Bhattachargee, 118 ITR 461 [Supreme Court] holding that the assessee is not interested in pursuing the appeal. The order, accordingly, cannot be upheld.

6. Considering the fact that the grievance of the assessee exists, it was deemed appropriate to set aside the impugned order back to the file of the ld. CIT(A) with a direction to pass a speaking order in accordance with law after giving a reasonable opportunity of being heard to the assessee.

7. While so directing, it is made clear that the assessee in its own interest should ensure full and proper participation before the First Appellate Authority and not to abuse the trust reposed in him. At the same time it is made clear that in the eventuality of the abuse of the trust

reposed the Ld. CIT(A) shall be at liberty to pass an order in accordance with law on the basis of material available on record. Said order was pronounced in the open court at the time of hearing itself.

8. Accordingly, the appeal filed by the assessee is allowed for statistical purposes.

Said order was pronounced in open court on 26th October, 2022.

Sd/-

(DIVA SINGH)
JUDICIAL MEMBER

Dated: 26.10.2022

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