

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “बी”, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA**  
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

**I.T.A. Nos. 443 & 444/Kol/2022**  
**Assessment Years : 2010-11 &2015-16**

S.R. Worth Ltd. (PAN: AAOCS 5399 H)	Vs.	DCIT, Circle-13(2), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	17.11.2022
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	28 .11.2022
For the Appellant/ निर्धारिती की ओर से	Shri Siddharth Agarwal, Advocate
For the Respondent/ राजस्व की ओर से	Shri P. P. Barman, Addl. CIT

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

These are the appeals preferred by the assessee against the separate orders of the Ld. Commissioner of Income Tax(Appeals)-5, Kolkata (hereinafter referred to as the Ld. CIT(A)”) dated 06.05.2019 for the AY 2010-11 &2015-16.

2. At the outset, the Ld. Counsel for the assessee submitted that the Ld. CIT(A) has decided the appeal ex-parte as the assessee could not appear on the various occasions when the Ld. CIT(A) fixed the appeals for hearing. The Ld. Counsel submitted that the notices sent by the Ld. CIT(A) were not received by the assessee as

the address mentioned in the notices was incomplete resulting into passing of ex-parte order which also contained incomplete address of the assessee. Again the appellate order passed by the Id. CIT(A) could not be served upon the assessee and thus the appeal could not be filed on time and the appeal was late by 194 days which is attributable to the failure of the counsel of the assessee Shri Suraj Mondal , Advocate who was authorized to appear before the tax authorities. The Id counsel argued that the delay cannot be attributed to the assessee as the counsel was negligent to attend the proceedings even before the AO. The Id. Counsel of the assessee, therefore, prayed before the Bench that the delay in filing the appeal may kindly be condoned and assessee may kindly be given one more opportunity to defend its case on merit before the Ld. CIT(A) by restoring this appeal to the file of the Ld. CIT(A).

3. The Ld. D.R on the other hand strongly objected the prayers of the Ld. A.R for condonation of delay by submitting that the counsel negligence is not the reasonable cause and may not be condoned. The Id AR further argued by submitting that despite several opportunities granted the assessee did not appear and therefore the said request of the counsel of the assessee for setting aside to CIT(A) has no substantive merit and may kindly be dismissed.

4. After hearing the rival parties and perusing the material on record, we observe that the assessee's appeal was decided ex-parte when the assessee failed to turn up on the dates fixed for hearings. We note that before the Id CIT(A) the reasons for service of notices as well as in the appellate order was mentioning of wrong address on the notices as well as the appellate order. In our opinion the delay in filing the appeal cannot be attributed to the assessee in such scenario. Therefore in the interest of justice and fair play, the assessee deserves to be given one more opportunity to defend its case before the Ld. CIT(A) on merits by condoning the delay. Accordingly we condone the delay and restore the appeal to the file of the Ld. CIT(A) with the directions to decide the same on merits by affording the assessee a reasonable opportunity of hearing. Simultaneously we also direct the assessee to cooperate in the disposal of this appeal.

5. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order is pronounced in the open court on 28<sup>th</sup> November, 2022

Sd/-  
(Sonjoy Sarma /संजय शर्मा)  
Judicial Member/न्यायिक सदस्य

Sd/-  
(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 28<sup>th</sup> November, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- S.R Worth Ltd., Narayani Complex, 1<sup>st</sup> Floor, 268, G.T. Road, Liluah, Howrah-711204.
2. Respondent- DCIT, Circle-13(2),Kolkata
3. Ld. CIT(A)- 5, Kolkata (Sent through e-mail)
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata