

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'एसएमसी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" 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 No.669/Kol/2022
Assessment year: 2015-16

K K Ghosh & K M Ghosh.....Appellant
2, Izzatulla Lane,
West Bengal – 700033.
[PAN: AADFT3260E]

vs.

ITO, Ward-28(1), Kolkata.....Respondent

Appearances by:

None appeared on behalf of the appellant.

Smt. Ranu Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 17, 2023

Date of pronouncing the order : February 08, 2023

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 27.12.2021 of the National Faceless Appeal Centre [hereinafter referred to as the 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. No one has appeared on behalf of the assessee despite notice, therefore, we proceed to decide the appeal after hearing the ld. DR.

3. A perusal of the grounds of appeal would reveal that the assessee is aggrieved by the action of the CIT(A) in dismissing the appeal of the assessee being barred by limitation.

4. It was pleaded before the CIT(A) that due the health issues, the partners of the assessee-firm could not operate their business and further that they did not receive the impugned order of the Assessing

Officer within time and due to serious health condition of the partner, they could not file appeal within the time period before the CIT(A). Therefore, it was requested to condone the delay and hear the appeal on merits.

5. We find that the ld. CIT(A) noted that the assessee could not establish with documentary evidence regarding the health issues. Even, there was no response to the notices of hearing sent by the ld. CIT(A). We find that the assessee has placed on record the medical prescription/certificate to show that the partner of the assessee, Smt. Chandrani Sarkar was under treatment during the period from 30.02.2018 to 25.03.2018. We further note that the impugned order of the CIT(A) is dated 27.12.2021 and that the hearing of the appeal was also conducted during the Covid period. In view of this, in our view, principles of natural justice will be well-served if the assessee is given an opportunity to present its case before the CIT(A). In view of this, the impugned order of the CIT(A) is set aside. The delay, if any, in filing the present appeal before the CIT(A) is hereby condoned. The ld. CIT(A) is directed to hear the appeal afresh and decide the same on merits. Needless to say that the CIT(A) will give proper opportunity to the assessee to present its case.

6. In the result, the appeal of the assessee stands allowed for statistical purposes.

Kolkata, the 8th February, 2023.

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]
लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य /Judicial Member

Dated: 08.02.2023.

RS

Copy of the order forwarded to:

1. K K Ghosh & K M Ghosh
2. ITO, Ward-28(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches