

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

I.T.A. No. 633/Kol/2022
Assessment Year: 2014-15

Ankit Patni (HUF) (PAN: AALHA 4369 M)	Vs.	ITO, Ward-29(4), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	16.02.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	17.02.2023
For the Appellant/ निर्धारिती की ओर से	Shri Ravi Tulsian, FCA
For the Respondent/ राजस्व की ओर से	Shri Vijay Kumar, Addl. CIT

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 15.09.2022 for the AY 2014-15.

2. At the outset, the Ld. Counsel for the assessee submitted before the Bench that the First appellate Authority has passed ex-parte order without deciding the issue on merit and without taking the cognizance of the adjournment letter filed by the assessee

on 12.09.2022. The Ld. Counsel for the assessee submitted that the Ld. CIT(A) has given three notices dated 11.01.2021, 24.08.2022 and 06.09.2022 to the assessee fixing the hearings on various dates. In the last date i.e. 06.09.2022 the Ld. CIT(A) has fixed the response due date on 13.09.2022. The Ld. A.R. placed before the Bench the adjournment details filed online and explained that the assessee moved an adjournment request on 12.09.2022 seeking adjournment of hearing to 28.09.2022. However, the Ld. CIT(A) passed the order on 15.09.2022 by giving wrong findings that the assessee did not file any adjournment details. The Ld. A.R therefore requested that the appeal may kindly be set aside to the file of the Ld. CIT(A) with the direction to decide the same on merit.

3. The Ld. D.R on the other hand fairly agreed with the ex-parte order passed by the Ld. CIT(A), left the issue at the wisdom of the Bench.

4. After hearing the rival contentions and perusing the adjournment details, we find that the assessee has moved an adjournment request on 12.09.2022 before the response due date i.e 13.09.2022 seeking adjournment up to 28.09.2022. However the Ld. CIT(A) has passed the ex-parte order on 15.09.2022 without considering the issue on merit and request of adjournment filed by the assessee. We observe that the Ld. CIT(A) has passed a cryptic four line order which is extracted below:

“The appellant was sent notices of hearing/submission 11.01.2021, 24.08.2022 and 06.09.2022. There was no reply from the appellant at given address. Therefore, it seems appellant has no interest in pursuing the appeal. Hence, I do not find any reason to interfere with the order passed by the assessing officer. In sum, appeal is dismissed.”

Thus it is clear that the Ld. CIT(A) has passed a cryptic and non-speaking order without dealing with merits of the case. Under these circumstances the ends of justice would be met if the case is restored back to the file of the Ld. CIT(A) to decide the same on merit after affording reasonable opportunity of hearing to the assessee. Accordingly the appeal of the assessee is allowed for statistical purposes.

5. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order is pronounced in the open court on 17th February, 2023

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

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

Dated: 17th February, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Ankit Patni (HUF), Sarita Kunj, 15, Burdwan Road, Alipore, Kolkata-700027.
2. Respondent – ITO, Ward-29(4), Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata