

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'एसएमसी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member

I.T.A. No.79/Kol/2023
Assessment Year: 2016-17

Ahmed Saifuddin..... Appellant
12A Colonel Biswas Road,
Park Circus, Kolkata-700019.
[PAN: BBPPS5835N]

vs.

ITO, Ward-32(4), Kolkata..... Respondent

Appearances by:

Shri Aayush Gupta, FCA, appeared on behalf of the appellant.

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

Date of concluding the hearing : March 16, 2023

Date of pronouncing the order : March 16, 2023

आदेश / ORDER

The present appeal has been preferred by the assessee against the order dated 30.11.2022 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. At the outset, the ld. Counsel for the assessee has invited my attention to the impugned order of the CIT(A) to submit that the ld. CIT(A) has dismissed the appeal of the assessee in limine holding that the same was time-barred. The ld. Counsel has further invited my attention to the relevant paras of the impugned order of the CIT(A) to submit that an application for condonation of delay of 132 days was

filed before the CIT(A) pleading that due to heart ailment the assessee could not prefer the appeal in time. However, the ld. CIT(A) did not accept the above plea as sufficient cause for condonation of delay.

3. Having heard both the parties and having gone through the record, I note that the appeal before the CIT(A) was time barred however, the assessee has given reasonable cause that he was suffering from heart ailment, therefore, he could not prefer the appeal in time and that the delay was not intentional but due to aforesaid circumstances. In my view, the interest of justice will be well-served if the appeal is heard by the CIT(A) on merits. Considering the overall facts and circumstances, the delay in filing the appeal before the CIT(A) is hereby condoned and the matter is restored to the file of the CIT(A) to decide the appeal of the assessee afresh on merits accordingly. Needless to say that the CIT(A) will give proper opportunity to the assessee to present his case.

4. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 16th March, 2023.

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

Dated: 16.03.2023.

RS

Copy of the order forwarded to:

1. Ahmed Saifuddin
2. ITO, Ward-32(4), Kolkata

3. CIT
(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches