

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'बी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "B" 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.234/Kol/2022
Assessment year: 2013-14

Sudhangshu Biswas.....Appellant

Mcwillium High School,
Alipurduar Court, New Town,
Madhab More, Alipurduar,
W.B-736122
[PAN: ADKPB3433D]

vs.

ITO, Ward-2(3), Alipurduar.....Respondent

Appearances by:

Shri Anil Kochar, Adv., appeared on behalf of the appellant.

Shri P. P Barman, Addl. CIT, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 15, 2023

Date of pronouncing the order : April 05, 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 17.12.2021 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. At the outset, the ld. Counsel for the assessee has invited our attention to the impugned order of the CIT(A) to submit that the same is an ex parte order and further that the ld. CIT(A) has dismissed the appeal of the assessee observing that the same was barred by limitation. The ld. Counsel has further invited our attention to the assessment order to submit that the same is dated 26.12.2016 which was served on

the assessee on 11.01.2017. The ld. Counsel has further invited our attention to Form No.35 which is opening form for appeal before the CIT(A) to submit that the said date of serving of notice was duly mentioned in the appeal opening form no.35 before the CIT(A). As noted by the CIT(A), the appeal has been preferred by the assessee on 09.02.2017 which is within the period of limitation. The ld. Counsel, therefore, has submitted that the matter may be restored to the file of the Assessing Officer and the assessee may be given an opportunity to present its case.

3. The ld. DR could not rebut the above dates and events relating to the filing of the appeal before the CIT(A).

4. In view of this, the impugned ex parte order of the CIT(A) is not sustainable in the eyes of law and the same is set aside and the matter is restored to the file of the CIT(A) to decide the appeal afresh. Needless to say that the CIT(A) will give adequate opportunity to the assessee to present its case.

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

Kolkata, the 5th April, 2023.

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 05.04.2023.

RS

Copy of the order forwarded to:

1. Sudhangshu Biswas
2. ITO, Ward-2(3), Alipurduar
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches