

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI 'F' BENCH, MUMBAI.

Before Shri B.R. Baskaran (AM) & Shri Pavan Kumar Gadale (JM)

I.T.A. No. 2917/Mum/2022 (A.Y. 2016-17)

Jito Administrative Training Foundation B-101, Business Square at Solitaire Park, Opp Apple Heritage/Bank of Baroda Adheri Kurla Road, Andheri-E Mumbai-400 093. PAN : AABTJ1619B (Appellant)	Vs.	CIT (Exemption) Piramal Chambers Lal Baug Parel Mumbai-400 012. (Respondent)
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Assessee by	Shri Piyush Chhajed & Shri Sumit Mantri
Department by	Shri Ankush Kapoor
Date of Hearing	27.03.2023
Date of Pronouncement	29.03.2023

O R D E R

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 23.3.2021 passed by the learned CIT(E), Mumbai under section 263 of the Act and it relates to A.Y. 2016-17.

2. The appeal is barred by limitation by 543 days. The assessee has filed an affidavit requesting the Bench to condone the delay. It is submitted that the impugned appeal order was passed ex-parte by the learned CIT(E) during covid period and order was served to the e-mail id of the assessee. However, the concerned employee in-charge of the accounts, failed to notice the order and did not bring it to the notice of the management. Hence the appeal could not be filed within time. It is further stated that the assessee came to know of the order passed by the learned CIT(E) when the Assessing Officer issued

notices in the set aside proceedings. Accordingly, after consulting the legal adviser, the impugned appeal was filed with delay. It is stated that the delay in filing the appeal was not willful and there is no intention to frustrate the judicial process. Accordingly it is prayed that the delay in filing the appeal may kindly be condoned.

3. We heard learned DR on this issue. Having regard to the submission made by the assessee in the affidavit, we are of the view that there was reasonable cause for the assessee in filing the appeal belatedly. Accordingly we condone the delay and admit the appeal for hearing.

4. The Learned AR submitted that the impugned revision order has been passed by the learned CIT(E) ex-parte without hearing the assessee. The Learned AR submitted that the learned CIT(E) issued notice for initiating revision proceedings on 12.3.2021, to which the assessee sought adjournment for 15 days. However, the learned CIT(E) refused to grant the adjournment on the reasoning that the time limit will expire on 31.3.2021. Accordingly, he passed the impugned revision order on 23.3.2021 ex-parte, without providing adequate opportunity of hearing to the assessee. Accordingly, the learned AR prayed that, in the interest of natural justice, the assessee may be provided with an opportunity to present its case properly before the learned CIT(E).

5. The Learned DR, on the contrary, submitted that the assessee has not furnished details called for by the learned CIT(E) and hence the learned CIT(E) has passed the order ex-parte.

6. Having heard the rival submissions, we are of the view that there is merit in the submissions made by the assessee. We notice that the assessee did not get proper opportunity to present its case before the learned CIT(E).

Accordingly, in the interest of natural justice, we are of the view that the assessee should be provided with one more opportunity to present its case before the learned CIT(E). Accordingly, we set aside the order passed by the learned CIT(E) and restore all the issues to his file for adjudicating them afresh, after affording adequate opportunity of being heard to the assessee.

7. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 29.3.2023.

Sd/-
(PAVAN KUMAR GADALE)
Judicial Member

Sd/-
(B.R. BASAKARAN)
Accountant Member

Mumbai; Dated : 29/03/2023

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(Judicial)
4. PCIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

PS