

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
'A' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President  
&  
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 63/KOL/2023  
Assessment Year: 2015-2016**

***M/s. A.S. Confin Pvt. Limited.....Appellant  
C/o. M/s. Salarpuria Jajodia & Co.,  
7, C.R. Avenue, 3<sup>rd</sup> Floor,  
Kolkata-700072  
[PAN: AACCA4063E]***

***-Vs.-***

***Income Tax Officer,.....Respondent  
Ward-10(2), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee Square,  
Kolkata-700069***

**Appearances by:**

*Shri S. Jhajharia, FCA, appeared on behalf of the  
assessee*

*Shri Vijay Kumar, Addl. CIT, appeared on behalf of the  
Revenue*

Date of concluding the hearing : May 11, 2023

Date of pronouncing the order : May 23, 2023

**ORDER**

**Per Shri Rajpal Yadav, Vice-President (KZ):-**

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi

dated 28<sup>th</sup> November, 2022 passed for assessment year 2015-16.

2. Brief facts of the case are that the assessee has filed its return of income on 30.09.2015 declaring a loss of Rs.46,680/-. The case of the assessee was selected for scrutiny assessment and an assessment order under section 143(3) of the Income Tax Act, 1961 was passed on 14.12.2017. The ld. Assessing Officer has disallowed expenditure to the extent of Rs.53,73,877/- out of car expenses, car loan interest and depreciation on car.

3. The assessee has filed an appeal before the ld. CIT(Appeals) on 30.01.2018. The ld. CIT(Appeals) has dismissed the appeal on the ground that it is time-barred. The ld. 1<sup>st</sup> Appellate Authority did not accept the explanation of the assessee for filing the appeal belatedly.

4. With the assistance of ld. Representatives, we have gone through the record carefully. The delay in filing the appeal of few days, namely against an assessment order dated 14.12.2017, 30 days were with the assessee. In other words, this appeal could have been filed on or before 13<sup>th</sup> January, 2018. The assessee has actually filed it on 30<sup>th</sup> January, 2018. The contention of the assessee before the ld. CIT(Appeals) was that digital

signature was expired and they obtained new digital. We are of the view that the ld. 1<sup>st</sup> Appellate Authority ought to have adopted a sympathetic view for considering the grounds of appeal raised by the assessee. The action at the end of the ld. CIT(Appeals) has unnecessarily burdened the system with more litigation. It is pertinent to observe that quasi judicial authorities are being respected not on account of their power to legalise the injustice on technical ground but because they are capable of removing injustice and is expected to do so. We accordingly set aside the impugned order of ld. CIT(Appeals) and condone the delay in filing the appeal before the ld. 1<sup>st</sup> Appellate Authority. We direct the ld. CIT(Appeals) to adjudicate the appeal on merit.

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

Order pronounced in the open Court on May 23, 2023.

**Sd/-**  
**(Manish Borad)**  
**Accountant Member**

**Sd/-**  
**(Rajpal Yadav)**  
**Vice-President(KZ)**

***Kolkata, the 23<sup>rd</sup> day of May, 2023***

***Copies to : (1) M/s. A.S. Confin Pvt. Limited,  
C/o. M/s. Salarpuria Jajodia & Co.,  
7, C.R. Avenue, 3<sup>rd</sup> Floor,  
Kolkata-700072***

***(2) Income Tax Officer,  
Ward-10(2), Kolkata,  
Aayakar Bhawan,***

***P-7, Chowringhee Square,  
Kolkata-700069***

- (3) Commissioner of Income Tax (Appeals),  
National Faceless Appeal Centre (NFAC),  
Delhi;*
- (4) Commissioner of Income Tax ,*
- (5) The Departmental Representative*
- (6) Guard File*

*TRUE COPY*

*By order*

*Assistant Registrar  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

***Laha/Sr. P.S.***