

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH "C" KOLKATA

**BEFORE SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER
AND SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER**

**ITA No. 167/KOL/2023
Assessment Year: 2018-19**

AI Champdany Industries Ltd. C/o. Subash Agarwal & Associates, Advocates, Siddha Gibson, 1, Gibson Lane, Suite 213, 2 nd Floor, Kolkata - 700 069. PAN: AACCA 4860 D (Appellant)	Vs.	Assessing Officer, NFAC, DCIT, Circle-1(1), Kolkata (Respondent)
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Present for:

Appellant by : Shri Siddharth Agarwal, Advocate
Respondent by : Shri G. Hukugha Sema, CIT

Date of Hearing : 29.05.2023

Date of Pronouncement : 31.05.2023

ORDER

PER SONJOY SARMA, JM:

This appeal in ITA No. 167/Kol/2023 for A.Y. 2018-19 is preferred by the assessee against the order of the Commissioner of Income Tax, National Faceless Appeal Centre, Delhi (NFAC) [Ld. CIT in short], dated 15.02.2023. The assessee has raised the following grounds of appeal:

"1. For that the ld. CIT(A) was not justified in not condoning delay in filing appeal before him though the assessee had shown reasonable cause for the delay.

2. For that the ld. CIT(A) was not justified in passing an ex-parte order without providing any reasonable opportunity of hearing.

3. For that on the facts and in the circumstances of the case, ld. CIT(A) ought to have admitted the appeal and disposed of the same on merit adjudicating various grounds of appeal taken before him.

4. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing."

2. At the outset, ld. counsel for the assessee submitted that the instant appeal is an ex-parte order without providing any reasonable opportunity of hearing and doing so ld. CIT(A) even did not consider the application for condonation of delay placed before him. Moreover, the case of the assessee was not decided on its merit. Therefore, the matter may be remand back to the file of ld. CIT(A) for fresh adjudication. On the other hand, ld. DR supported the order passed by the ld. CIT(A).

3. We after hearing the submission made by parties and perused the material available on record. We notice that the impugned order passed by the ld. CIT(A) is an ex-parte order and decided it without going into the merits of the case. We, therefore, remand this matter to the file of ld. CIT(A) for fresh adjudication. We also direct the ld. CIT(A) to give reasonable opportunity of being heard to the assessee and also direct the assessee to remain vigilant and appear before the ld. CIT(A). The assessee is also directed to file its necessary application for condonation of delay along with the documents if any before him. In terms of the above order, we allow the appeal filed by the assessee for statistical purposes.

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

Order pronounced in the open court on 31.05.2023

Sd/-

**(RAJESH KUMAR)
ACCOUNTANT MEMBER**

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Kolkata, Dated: 31.05.2023
Biswajit, Sr. P.S.

Copy to:

1. The Appellant: AI Champdany Industries Ltd.
2. The Respondent: Assessing Officer, NFAC, DCIT, Circle-
1(1), Kolkata
3. The CIT,
4. The CIT (A)
5. The DR

//True Copy//

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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata