

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" 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.604/Kol/2023
Assessment year: 2016-17

Triyogi Narayan Singh.....Appellant
C/o Subash Agarwal & Associates,
Advocates Siddha Gibson,
1, Gibson Lane, Suite 213,
2nd Floor, Kol-700069.
[PAN: APMPS8395D]

vs.

ACIT, Circle-28, Kolkata.....Respondent

Appearances by:

Shri Siddharth Agarwal, Advocate, appeared on behalf of the appellant.

Shri Sudip Kr. Bandyopadhyay, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : July 27, 2023

Date of pronouncing the order : August 03, 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 26.04.2023 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. The ld. Counsel has relied upon the affidavit of the assessee namely Shri Triyogi Narayan Singh, wherein, it has been deposed that the ld. CIT(A) had firstly fixed the matter of hearing on 15.02.2021, on which date the adjournment was sought due to Covid

pandemic and thereafter the matter was adjourned by the CIT(A) on 19.04.2023, which did not come to the notice of the assessee. However, when the counsel for the assessee opened the portal on 26.04.2023 for making written submissions then it was found that the portal was closed for making submissions and the order was already passed. The ld. Counsel, therefore, has submitted that no proper opportunity has been granted to the assessee to present his case.

3. We find force in the contention of the ld. AR. The order seems to have passed without giving proper opportunity to the assessee to present his case. The impugned order of the CIT(A) is set aside and the matter is restored to the file of the CIT(A) to decide the same afresh in accordance with law. Needless to say that the ld. CIT(A) will give proper opportunity to the assessee to present his case.

4. Before parting with the order, we want to point out here that now-a-days, we are coming across many such appeals, wherein, identical plea is taken that the date of notice of hearing was either uploaded on the portal or intimated through email. However, if due to some reason, either the Income Tax portal is not accessed to or the email is not noted by the concerned appellants or their counsel, the appeals are decided ex parte of the assessee by the concerned CIT(Appeals) even without providing sufficient opportunity and without giving proper intimation to the appellants about the fixation of date of hearing. Thereafter, the appeals are filed before the Tribunal claiming that no proper opportunity of hearing has been granted and the matters are being restored by the Tribunal for adjudication afresh to the lower authorities. This is resulting into unnecessary litigation. Though, by following this practice for the time being, the pendency of appeal is shown reduced with the concerned CIT(A) and even before the Tribunal, but the litigation/issue, in fact, has

not been decided, rather, it is contributing to harassment both financially and mentally to the concerned assesseees as well as wastage of Government resources.

5. Subject to the above observations, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 3rd August, 2023.

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 03.07.2023.

RS

Copy of the order forwarded to:

- 1 Triyogi Narayan Singh
2. ACIT, Circle-28, Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches