

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: SMC: NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No.2042/Del/2023  
Assessment Year: 2010-11

M/s. AMD Financial Services P. Ltd., 18, 1 <sup>st</sup> Floor, Pusa Road, Karol Bagh, New Delhi 110005 <b>PAN AABCA 0347 E</b>	vs.	The ACIT, Circle 1(1), Delhi
(Appellant)		(Respondent)

For Assessee :	Shri Suresh K. Gupta, CA
For Revenue :	Shri Om Prakash, Sr. DR

Date of Final Hearing :	31.08.2023
Date of Pronouncement :	31.08.2023

**ORDER**

**PER CHANDRA MOHAN GARG, J.M.**

This appeal has been filed against the order of Id. CIT(A)/NFAC dated 31.05.2023 for AY 2010-11.

2. I have heard arguments of both the sides on ground no. 1 of assessee. The Id. Assessee Representative (AR) submitted that the Id. CIT(A) has grossly erred on fact and in law in dismissing the appeal treating the same as not maintainable on account of delay of 4333 days in filing appeal against the intimation order u/s. 143(1) dated 24.02.2011 by ignoring the fact that the said order was intimated and served on the assessee through email on 13.01.2023 at 15:09:13 PM. Therefore on receipt of intimation order dated 24.02.2011 on 13.01.2023 the appeal filed on 13.02.2023 has to be treated as filed within prescribed time limit of 30 days counting from the date of receipt of order by the assessee therefore there is no delay in filing appeal before the Id. CIT(A).

3. Replying to the above, the Id. Senior DR strongly supported the first appellate order dismissing appeal of assessee in *limine* treating the same has barred by limitation. However, on being asked by the bench he could not controvert the contention of Id. AR that the assessee first time received and saw the intimation u/s. 143(1) of the Act, through email on 13.01.2023 and thus, first appeal filed by the assessee cannot be treated as time barred. Accordingly, conclusion drawn by the Id. CIT(A) is set aside and I hold that since the assessee received intimation order on 13.01.2023. Therefore the appeal filed on 13.02.2023 cannot be treated as time barred. Consequently, the first appellate order is set aside and I hold that the appeal is maintainable being filed within prescribed time limit before the Id. CIT(A). Accordingly, ground no. 1 of assessee is allowed.

4. Since the Id. CIT(A) has not adjudicated grounds of appeal raised in Form no. 35 therefore the matter is restored to his file for adjudication of grounds of assessee after allowing due opportunity of hearing to the assessee and without being influenced with the earlier order.

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

Order pronounced in the open court on 31.08.2023

Sd/-  
(CHANDRA MOHAN GARG)  
JUDICIAL MEMBER

Dated: 31<sup>st</sup> August, 2023.

NV/-

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

// By Order //

Asstt. Registrar, ITAT, New Delhi