

आयकर अपीलीय अधिकरण
कोलकाता 'बी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH, KOLKATA**

श्री संजय गर्ग, न्यायिक सदस्य
एवं
डॉ. मनीष बोर्ड, लेखा सदस्य
के समक्ष

**Before
SRI SANJAY GARG, JUDICIAL MEMBER
&
DR. MANISH BORAD, ACCOUNTANT MEMBER**

**I.T.A. No.: 696/KOL/2023
Assessment Year: 2012-13**

***M/s. Arun Rice Mill (P) Ltd.....Appellant
[PAN: AAJFM 7700 N]***

Vs.

ACIT, Circle-1, Asansol.....Respondent

Appearances:

Assessee represented by: None.

Department represented by: Sh. P.P. Barman, Addl. CIT, Sr. D/R.

Date of concluding the hearing : September 12th, 2023

Date of pronouncing the order : September 22nd, 2023

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2012-13 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Id. Commissioner of Income Tax (Appeals)- Asansol [in short 'Id. CIT(A)'] dated 24.12.2019 arising out of the assessment

order framed by the Assessing Officer (in short ld. 'AO') u/s 143(3) of the Act.

2. Registry has informed that the appeal filed by the assessee is time barred by 1233 days. Condonation application has been filed by the assessee stating as follows:

"1. That your petitioner filed an appeal before the Ld. CIT(A) against the order passed by the A.O. u/s 143(3) dated 19.03.2015 for the A.Y.: 2012 - 2013.

2. That the appellant company had discontinued its business operation from the assessment year 2014-15 and proper compliance could not be made from the end of the appellant due to absence / lack of staff.

3. That the appellant was not even aware that an order u/s 250 was passed by the Ld. CIT(A) on 24/12/2019.

4. That the appellant recently received a notice vide DIN & Letter No. ITBA/COM/F/17/2023-24/1053268745(l) dated 29.05.2023 from the office of the TRO and thereafter the assessee came to know that an ex parte order had already been passed by the Ld. CIT(A)

5. Then the representative of the assessee contacted Ms. Swati Baid, FCA on or around 6 July 2023 for filing an appeal before the ITAT.

6. Then the appeal was accordingly prepared by her by 10.01.2023 and deposited before the Hon'ble Tribunal on 11th July 2023 with a delay of around 1227 days.

7. Thus, there is a reasonable cause for not filing appeal within time and it is humbly prayed that the delay of around 1227 days may please be condoned and the case of your petitioner be heard on merit.

In the circumstances, your petitioner prays that the delay in filing of appeal before this Ld. Tribunal may kindly be condoned and the case be heard on merits or such order/orders be passed as this Ld. Tribunal deems fit and proper."

3. Though ld. D/R opposed the request of condoning the delay, we however, considering the facts narrated in the given application

for condonation of delay and also observing that major portion of this delay is on account of COVID-19 restrictions which started from March, 2020 to March 2022 and also observing that the assessee has not gained anything by delaying in filing the instant appeal. We therefore, condone the same and admit the appeal for adjudication.

4. Perusal of the record indicates that in the instant appeal, the impugned order is *ex-parte* and the assessee failed to get sufficient opportunity to give the submissions and file relevant documents in support of its grounds raised before Id. CIT(A).

5. Id. D/R supported the order of Id. CIT(A).

6. We have heard Id. D/R and perused the records placed before us. Through ground no. 1 assessee has stated that Id. CIT(A) erred in passing *ex-parte* order without affording reasonable opportunity. From perusal of the impugned order, we find that there was no appearance on behalf of the assessee before Id. CIT(A) and the impugned order was passed *ex-parte*.

7. We, therefore, considering the facts of the case, in the interest of justice and being fair to both the parties, restore all the issues in the instant appeal to the Id. CIT(A) for fresh adjudication and to pass a speaking order after considering the submissions as well as the relevant documents to be filed by the assessee on being provided adequate opportunity and to decide in accordance with law. The assessee is directed to remain vigilant and file necessary documents, if considered, in support of its grounds of appeal and

should not take adjournment, unless otherwise required for reasonable cause.

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

Kolkata, the 22nd September, 2023

Sd/-
[Sanjay Garg]
Judicial Member

Sd/-
[Manish Borad]
Accountant Member

Dated: 22.09.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. M/s. Arun Rice Mill (P) Ltd., Hattola Road, P.O. Jamuria Hat, Dist. Paschim Burdwan, West Bengal-713 336.**
- 2. ACIT, Circle-1, Asansol.**
3. CIT(A)-Asansol.
4. CIT-
5. CIT(D/R), Kolkata Benches, Kolkata.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata