

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

BEFORE SHRI G.S PANNU, HON'BLE PRESIDENT
AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No.1822/Del/2022
Assessment Year: 2019-20

M/s B K Automatics, B K Automatics, 106, Sainik Colony, Hisar Bhiwani Link Road, Rohtak, Haryana 124001 PAN AATFB 2414 J (Appellant)	vs.	ITO, Ward-5, Rohtak, Haryana 124001 (Respondent)
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For Assessee :	Ms. Nikitaa Gupta, Adv. Mr. Naveen Gupta, Adv.
Revenue For :	Ms. Anubhaa Tah, Sr. DR

Date of Hearing :	04.10.2023
Date of Pronouncement :	06.10.2023

ORDER

PER CHANDRA MOHAN GARG, J.M.

This appeal has been filed against the order NFAC, New Delhi dated 13.06.2022 for A.Y. 2019-20.

2. The ground no. 4 of assessee is as follows:-

4. That the Ld. CIT(A) erred in dismissing the appeal of the appellant by treating it as belated appeal, which is in gross violation of judgment of Hon'ble Supreme Court in which the Hon'ble Supreme Court had extended the limitation period from 15.03.2020 in view of COVID-19 Pandemic.

3. The Id. counsel submitted that the assessee filed appeal against the order of ADIT (CPC Bangalore) dated 10.04.2020 before the Id. CIT(A) NFAC on 13.06.2022 by the delay of 33 days but the said period was covered by the order of Hon'ble Supreme Court in the *suo moto* writ petition (Civil) No. 3/2020 dated 23.03.2020 by which the period of limitation in all the proceedings in irrespective of limitation prescribed under general law or special law whether condonable or not was extended with effect from

15.03.2020 till further orders and ultimately Hon'ble Supreme Court extended the said period upto 28.02.2022. The Id. counsel thus submitted that in view of order of Supreme Court the delay of 33 days is covered by the extended period of limitation and hence the Id. CIT(A) has erred in dismissing the appeal of assessee in *limine* contrary to the directions of the Hon'ble Supreme Court. The Id. counsel also submitted that the Id. CIT(A) has not decided the grounds of assessee raised in form no. 35 therefore the matter may kindly be restored to the file of Id. CIT(A) for adjudication of first appeal on merits.

4. The Id. Senior DR supported the orders of the authorities below. However he could not controvert the factual position stated by the Id. counsel of assessee as noted above.

5. In view of order of Hon'ble Supreme Court dated 23.03.2020 the period of 33 days is covered by the extended period of limitation and thus the Id. CIT(A) was not correct and justified in dismissing the appeal of assessee on the allegation of time barred appeal. Therefore findings of Id. CIT(A) are reversed and we hold that the assessee has filed appeal before Id. CIT(A) within extended period of limitation and thus the same was to be admitted decided by the Id. First Appellate Authority on merits. Since the Id. CIT(A) has not adjudicated grounds of assessee raised in form no. 35 as per requirement of sub section 6 of section 250 of the Act, therefore, the matter is restored to the file of Id. CIT(A) to the first appellate stage. The Id. CIT(A) is directed to adjudicate the appeal on merits after allowing due opportunity of hearing to the assessee. Accordingly, ground no. 4 of assessee is allowed.

6. In the result, the appeal is allowed for statistical purposes. Order pronounced in the open court on 06.10.2023.

Sd/-
(G.S PANNU)
PRESIDENT

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Dated: 06th October, 2023

NV/-

Copy forwarded to :

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

// By Order //

Asstt. Registrar, ITAT, New Delhi