

आयकर अपीलिय अधिकरण
मुंबई पीठ "सी", मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री अमरजीत सिंह, लेखाकार सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH " C ", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

आअसं. 1691 / मुं/ 2023 (नि. व. 2012-13)
ITA NO.1691/MUM/2023(A.Y.2012-13)

Candor India Private Limited,
Ground Floor, Siddhi Building,
15th Road, Khar (West)
Mumbai – 400 052
PAN: AADCC-3264-A

..... अपीलार्थी/ Appellant

बनाम Vs.

ACIT, Circle-9(2)(1), Mumbai
Room No.535,
Aaykar Bhavan, M.K.Road,
Mumbai – 400 021

..... प्रतिवादी/ Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Prateek Jain
प्रतिवादी द्वारा/ Respondent by : Shri H.M.Bhatt
सुनवाई की तिथि/ Date of hearing : 18/10/2023
घोषणा की तिथि/ Date of pronouncement : 18/10/2023

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against an ex-parte order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi[in short 'the CIT(A)'] dated 17/03/2023, for the Assessment Year 2012-13.

2. Shri Prateek Jain appearing on behalf of the assessee submitted at the outset that the CIT(A) has passed the impugned order without affording sufficient opportunity of making submissions to the assessee. He submitted

that the CIT(A) has decided the appeal ex-parte. He prayed for restoring the appeal to CIT(A) for passing the order after affording appropriate opportunity of hearing to the assessee/appellant.

3. Per contra, Shri H.M.Bhatt representing the Department vehemently supported the impugned order and prayed for dismissing the appeal. The Id. Departmental Representative submitted that the CIT(A) has afforded sufficient opportunity to the assessee, however, the assessee failed to respond to the notices issued by CIT(A).

4. We have heard the submissions made by rival sides and have examined the orders of authorities below. A perusal of the impugned order shows that notices of hearing of appeal were served on the assessee on 19/07/2019, 18/08/2020, 24/12/2020, 18/12/2022, 23/12/2022 and 07/03/2023 through ITBA Portal. The assessee sought adjournment vide letter dated 09/01/2023 and 24/01/2023. Ostensibly, on the earlier dates of hearing the assessee failed to respond to any of the notices. It is not the case of assessee that notices of hearing as mentioned in the impugned order were not served on the assessee. This clearly shows that there was non-compliance on the part of assessee in not responding to the notices served over a period of more than three years. Apparently, the assessee disregarded the notices and chose not to appear before the CIT(A). The CIT(A) had no other option but to decide the appeal on merits after considering the documents already on record. Taking into consideration entire facts and in the interest of justice we deem it appropriate to restore this appeal to the CIT(A) for fresh adjudication on merits after considering the submissions of the assessee, in accordance with law.

5. Considering the past conduct of the assessee, a cost of Rs.10,000/- is imposed on the assessee for negligence and disobedience of the statutory notices. The assessee shall deposit the cost in accordance with Rule 32A(2) of the Income Tax (Appellate Tribunal) Rules, 1963 within two weeks from the date of receipt of this order.

6. **The CIT(A) shall entertain the appeal for fresh adjudication upon payment of cost by the assessee within the time and manner mentioned above.**

7. The assessee shall respond to the notice of hearing served by the CIT(A) without fail.

8. In the result, impugned order is set-aside and appeal of the assessee is allowed for statistical purpose in the terms aforesaid.

Order pronounced in the open court on Wednesday the 18th day of October, 2023.

Sd/-

(AMARJIT SINGH)

लेखाकार सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 18/10/2023

Vm, Sr. PS(O/S)

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि. , मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

BY ORDER,

//True Copy//