

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 716/Kol/2023
Assessment Year: 2010-11

Dibyendu Jana C/o Subash Agarwal & Associates, Advocates Siddha Gibson 1, Gibson Lane, Suite 213 2 nd Floor Kolkata - 700069 [PAN : AGDPJ5316M]	Vs	Income Tax Officer, Ward - 27(3), Haldia
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Siddharth Agarwal, Advocate
Revenue by :	Shri P.P. Barman, Addl. CIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 26/09/2023
घोषणा की तारीख /Date of Pronouncement: 31/10/2023

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The above captioned appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter the "Id. CIT(A)") dt. 09/05/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2010-11

2. The Registry has pointed out that there is a delay of 7 days in filing the present appeal by the assessee. Petition for condonation of delay is placed on record by assessee explaining the reasons. On perusing the same, we are convinced that the assessee was prevented by sufficient cause from filing this appeal in time. Accordingly, we condone the delay and proceed to admit the appeal for hearing.

3. Without prejudice to the Grounds raised before this Tribunal, the Id. Counsel for the assessee submitted that the Id. CIT(A) was not justified in passing an *ex-parte* order without providing any reasonable opportunity of hearing to the assessee. We have perused the impugned order and observed that during the course of appellate proceedings before the Id. CIT(A), various notices of hearing were issued but there was no response from the assessee and thus the Id. CIT(A) decided the appeal by confirming the action of the Id. Assessing Officer on account of non-appearance of the assessee. The Id. Counsel for the assessee prayed that the order of the Id. CIT(A) be set aside for fresh adjudication on merits.

4. The Id. D/R, though not leaving his grounds, raised no objection to the plea of the assessee.

5. In view of the above, in the interest of justice, we deem it fit to restore the issue to the file of the Id. CIT(A), for *de-novo* adjudication, in accordance with law, after giving the assessee adequate opportunity of being heard. The Id. CIT(A) is directed to pass a speaking order after dealing with the merits of the case.

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

Order pronounced in the Court on 31st October, 2023 at Kolkata.

Sd/-

**(SANJAY GARG)
JUDICIAL MEMBER**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 16/10/2023

**SC Sp/2*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata