

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**(VIRTUAL COURT)**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 212/Asr/2023**  
Assessment Year: 2017-18

Mohammad Yaqoob Banday  
Sodipora Beerwah, Near Masjid  
Budgam, J & K 193411,

[PAN: BYRPB 4800P]

**(Appellant)**

Vs. Income Tax Officer,  
Ward-1, Srinagar

**(Respondent)**

Appellant by : Sh. Bashir Ahmad Lone, CA  
Respondent by : Sh. Ravinder Mittal, Sr. DR

Date of Hearing : 30.10.2023  
Date of Pronouncement : 31.10.2023

**ORDER**

**Per Dr. M. L. Meena, AM:**

The captioned appeal has been filed by the assessee against the order of the Id. CIT(A) National Faceless Appeal Centre (NFAC) Delhi, dated 13.09.2022 in respect of Assessment Year: 2017-18 challenging therein the ex-parte order passed by the Id. CIT(A) arising out of the ex-

parte Assessment Order passed by the AO by the Income Tax Officer, Ward-2, Srinagar.

2. At the outset, the Id. counsel for the assessee submitted that there was a delay of 245 days in filing the appeal on account of the assessee being old, illiterate and his son has been suffering, admitting to SMS Srinagar who looked after her and its matter regarding filing of return, business activity and other matters. Thus, he requested for condonation of delay on compassionate ground.

3. The Id. DR although objected to the request of the assessee, however, considering the medical ground of the appellant assessee, the delay is condoned in the interest of justice and appeal is admitted on merits.

4. At time of hearing in Virtual Court, the counsel submitted that both the lower authorities, the AO and the Id. CIT(A) has passed the order ex-parte qua the assessee and thus, the assessee has been denied the opportunity of being heard in violation of principles of natural justice. He pleaded that the appellant may be granted an adequate opportunity of being heard before the AO to present its case in view of the natural justice. He argued that the Id. CIT(A) has confirmed the addition without going into the merits

of the case and confirmed the addition made by the AO in an ex-parte assessment order passed u/s 144 of the Act in violation of principles of natural justice. He pleaded that in the interest of justice, the matter may be remanded back to the AO to pass denovo assessment order after granting adequate and reasonable opportunity of being heard to present its case before the Assessing Officer. In support, he placed the reliance on the judgment of the Hon'ble High Court in the case of "Bharat Aluminium Company Ltd. v. Union of India."

5. Per contra, the Id. DR relied on the impugned order.

6. Heard both the sides, perused the material on record and the impugned order. We find that both the lower authorities have passed the order ex-parte qua the assessee. Thus, the assessee has been deprived of an opportunity of being heard by the authorities below in violation of principles of natural justice. In view of that matter, we consider it deem fit to remand back the matter to the file of the AO to pass denovo assessment order after granting adequate and reasonable opportunity of being heard to the appellant assessee. The assessee is also directed to co-operate in the denovo assessment proceedings before the AO. Accordingly, the matter is restored to the file of the Assessing Officer.

7. In the result, the appeal of the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 31.10.2023*

**Sd/-**  
**(Anikesh Banerjee)**  
**Judicial Member**

**Sd/-**  
**(Dr. M. L. Meena)**  
**Accountant Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T.

True Copy

By Order