

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'H' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
and  
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No.1914/DEL/2023  
(Assessment Year : 2014-15)**

Xavient Software Solutions India P. Ltd., vs. ACIT, Circle 3,  
54, NSEZ, Phase 2, Noida.  
Noida – 201 301 (Uttar Pradesh).

**(PAN : AAACX0465F)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Sharendra Batra, CA  
Shri Somil Agarwal, Advocate  
REVENUE BY : Shri Amit Katoch, Senior DR

Date of Hearing : 04.12.2023  
Date of Order : 07.12.2023

**ORDER**

**PER SHAMIM YAHYA, ACCOUNTANT MEMBER :**

This appeal filed by the assessee is directed against the order of Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 29.04.2023 for the Assessment Year 2014-15.

2. Although the assessee has raised various grounds, the Id. Counsel of the assessee at the beginning pressed for Ground No.1 which reads as under :-

“1. That having regard to the facts and circumstances of the case, Ld. CIT (A)/NFAC has erred in law by passing ex-parte

order dismissing the appeal for non-representation/non-prosecution without deciding the issues on merits.”

3. In this case, pursuant to the assessment order passed by the AO dated 30.12.2016, the assessee has filed appeal before the ld. CIT (A). Ld. CIT (A) noted that several dates have been fixed but the assessee has not appeared. Hence, the ld. CIT (A) dismissed the appeal for non-prosecution.

4. Against this order, the assessee has filed appeal before us.

5. We have heard both the parties and perused the material on record. We find that Section 251 of the Income-tax Act, 1961 dealing with the powers of ld. CIT (A) does not provide for dismissal of the appeal for non-prosecution. Hence, we remit the issue to the file of ld. CIT (A). Ld. CIT (A) shall pass speaking order after giving adequate opportunity of being heard to the assessee.

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

**Order pronounced in the open court on this 7<sup>th</sup> day of December, 2023.**

**Sd/-  
(YOGESH KUMAR US)  
JUDICIAL MEMBER**

**sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Dated the 7<sup>th</sup> day of December, 2023  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.