

**IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'B', KOLKATA**

[Before Dr. Manish Borad, Accountant Member &  
Shri Sonjoy Sarma, Judicial Member]

**I.T.A. No. 497/Kol/2022**  
**Assessment Year : 2012-13**

Medi Clue Research & Diagnostic (P) Ltd.	Vs.	DCIT, CIR-11, Kolkata
PAN: AADCM 1410 G		
Appellant		Respondent

Date of Hearing	19.12.2023
Date of Pronouncement	20.12.2023
For the Assessee	Shri Amit Roy, AR
For the Revenue	Shri P.P. Barman, Addl. CIT

**ORDER**

**Per Sonjoy Sarma, JM:**

This appeal of the assessee for the assessment year 2012-13 is directed against the order dated 30.06.2022 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the Id. CIT(A)']. The assessee has raised the following grounds of appeal:

*"1. That on the facts and in the circumstances of the case having been coerced by its designated persons for necessary compliance the alleged non-compliance as mentioned by the Id. CIT(A) is not correct as the appellant had put forward valid request for adjournment against notice dated 01.6.2022 seeking compliance on 08.06.2022 where the adjournment sought up to 21.06.2022 was ignored yet the status depicted open in the portal. Therefore, it is most humbly prayed for further opportunity before the Id. CIT(A) for the end of justice & equity."*

2. At the outset, we find that there is a delay of 6 days in filing of the instant appeal by the assessee. We after perusing the petition for condonation of delay find that instant appeal has been filed by the assessee in electronic mode which was within the due course as

prescribed under the law. However, copy of the same could not file in due course before the Tribunal in manual format by the assessee and there was a delay of 6 days due to the fact that certain documents required to be filed could not be arranged immediately. We after going through the same are satisfied that the assessee was prevented by sufficient cause from filing the appeal in time and hence the delay is condoned by admitting the appeal.

3. At the time of hearing ld. AR appeared on behalf of the assessee and on perusal of the impugned order we find that the instant order passed by the ld. CIT(A) is an ex-parte order and assessee did not get any opportunity to file relevant document / submission before the authorities below and nothing has been dealt on merits except reiterating the assessment order by sustaining the order of ld. AO. The assessee could not get any opportunity to file its submission and however relevant details as stated in grounds of appeal by praying before the Tribunal to restore the appeal to the file of ld. CIT(A) for fresh adjudication of matter after providing reasonable opportunity of being heard.

4. We after hearing both the parties and perusing the records placed before us find that the instant impugned order was an ex-parte order and assessee could not able to file necessary details as well as submission at the time of hearing before the ld. CIT(A). Under these given facts and circumstances, we restore the matter in the instant appeal to the file of ld. CIT(A) for adjudicating afresh to pass a speaking order after considering the submission made by the assessee for which reasonable opportunity of being heard should be

given. The assessee is also directed to remain vigilant and file necessary documents in support of its claim and should not take any further adjournment unless otherwise for reasonable cause. In case after providing sufficient opportunity to the assessee there is no compliance before the ld. CIT(A) then the ld. CIT(A) can proceed to pass the order in accordance with law.

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

Order pronounced in the open court on 20.12.2023.

Sd/-

Sd/-

(Manish Borad)  
Accountant Member

(Sonjoy Sarma)  
Judicial Member

Dated: 20.12.2023

*Biswajit, Sr. PS*

Copy of the order forwarded to:

1. Appellant- Medi Clue Research & Diagnostic Pvt. Ltd., 29/1A, Chandra Chatterjee Street, Kolkata-700025.
2. Respondent – DCIT, Cir-11, Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata