

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

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER
&
SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER

I.T.A. No. 216/Kol/2023
Assessment Year: 2016-17

Debashis Banerjee 302, Surya Kiran Apartment U.D.P Road Baguiati West Bengal - 700059 [PAN: AHRPB2019A]	Vs	Income Tax Officer, Ward - 22(1), Kolkata
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	None
Revenue by :	Shri P.P. Barman, Addl. CIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 20/11/2023
घोषणा की तारीख /Date of Pronouncement: 21/12/2023

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 learned Commissioner of Income Tax (Appeals), Kolkata - 6, dt. 14/01/2020, (hereinafter the "ld. CIT(A)"), passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2016-17.

2. This appeal has a checkered past. Firstly the appeal was time barred by 1055 days and was fixed for hearing on 01/05/2023, on which date the Bench considered the condonation petition and was of the opinion that the assessee was prevented by sufficient cause from filing the appeal in time and accordingly condoned the delay and admitted the appeal for hearing. Shri D.K. Saha, C.A., had appeared on behalf of the assessee who prayed that as the ld. First Appellate Authority had passed an *ex-parte* order, the assessee may be granted the

opportunity to produce all the necessary documents in support of its claim before the Tribunal. The case was treated as part-heard and was adjourned to 12th July, 2023 for further hearing.

2.1. On 12/07/2023, staff of the ld. A/R appeared and placed an adjourned application stating therein that due to illness, the ld. A/R could not appear. The hearing was adjourned to 25/09/2023. On 25/09/2023, the case was again adjourned to 20/11/2023, at the request of the ld. A/R.

3. When the case was called up for hearing on 20/11/2023, none appeared on behalf of the assessee. In view of this series of events, we are of the view that the ld. A/R does not seem interested to prosecute the appeal before the Tribunal. However, in view of the fact that the ld. CIT(A) has passed an *ex-parte* order, without dealing with the merits of the case, interests of justice would be met if the issues are restored to the file of the ld. CIT(A) for fresh adjudication after granting the assessee adequate opportunity of being heard and pass a speaking order. The assessee shall produce all necessary documents/evidences in support of its claim.

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

Order pronounced in the Court on 21st December, 2023 at Kolkata.

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Kolkata, Dated 21/12/2023

**SC Sarma*

Sd/-

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

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