

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'H': NEW DELHI)
BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
ITA No:- 2118/DEL/2023
(Assessment Year- 2013-14)**

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| Xavient Software Solutions India P. Ltd., Noida. | Vs. | ACIT, Circle-3, Noida. |
| APPELLANT | | RESPONDENT |
| PAN No: AAACX0465F | | |

Assessee By : Shri Somil Agarwal, Adv.
Revenue By : Ms. Maimun Alam, Sr. DR

Date of Hearing : 17.01.2024
Date of Pronouncement : 22.01.2024

ORDER

PER SHAMIM YAHYA, A.M.

This appeal by the assessee is directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 31.05.2023 and pertaining to Assessment Year 2013-14.

2. Although, the assessee has raised various grounds. The Ld. Counsel for the assessee at the beginning pressed for the ground no. 1 which reads as under:

"1. That having regard to facts and circumstances of the case, Ltd. 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 merit."

3. In this case, pursuant to Assessment Order passed by the AO dated 30.12.2016, the assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) noted that several dates have been fixed but the assessee has not appeared. Hence, the Id. 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 dealing with the powers of Id. CIT(A) does not provide for dismissal of the appeal for non-prosecution. Hence, we remit the issue to the file of the Id. CIT(A). The Id. CIT(A) shall pass speaking order after giving an opportunity to the assessee .

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

Order Pronounced in the Open Court on 22/01/2024.

Sd/-

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated: 22/01/2024
(Pooja)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

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| Date of dictation | 17.01.24 |
| Date on which the typed draft is placed before the dictating Member | |
| Date on which the typed draft is placed before the Other Member | |
| Date on which the approved draft comes to the Sr. PS/PS | |
| Date on which the fair order is placed before the Dictating Member for pronouncement | |
| Date on which the fair order comes back to the Sr. PS/PS | |
| Date on which the final order is uploaded on the website of ITAT | |
| Date on which the file goes to the Bench Clerk | |
| Date on which the file goes to the Head Clerk | |
| The date on which the file goes to the Assistant Registrar for signature on the order | |
| Date of dispatch of the Order | |