

आयकर अपीलिय अधिकरण
मुंबई पीठ“जी”, मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री गगन गोयल, लेखाकार सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “G”, MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER
आ.अ.सं.4880/मुं/2023 (नि.व.2018-19)
ITA NO.4880/MUM/2023 (A.Y. 2018-19)

Shashank Ashok Sawant,
726/7, Vaibhav Apartment,
D.S.Babrekar Marg, Gokhale Road,
Dadar, Mumbai -400 037.

PAN: AYVPS-0999-K

..... अपीलार्थी / Appellant

बनाम Vs.

Assessing Officer,
National e-Assessment Centre,
Delhi.

..... प्रतिवादी / Respondent

Assessee by : Shri Prakash Jhunjhunwala

Revenue by : Shri Ashok Kumar Ambastha

सुनवाई की तिथि/ Date of hearing : 19/01/2024

घोषणा की तिथि/ Date of pronouncement : 19/01/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

The assessee has filed an application for early of appeal as the Department has attached Bank accounts of the assessee vide order dated 19/12/2023, causing financial hardship to the assessee. Considering the facts, with the consent of both the sides appeal is taken up for hearing today itself.

2. This appeal by the assessee is directed against ex-parte order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short ‘the CIT(A)’] dated 11/09/2023, for the Assessment Year 2018-19.

3. The appeal is time barred by 49 Days. The assessee has filed an application seeking condonation of delay in filing of appeal. The Ld. Departmental Representative vehemently opposed the said application and prayed for dismissing the appeal of assessee on the ground of limitation.

Both sides heard. After perusal of the application we are satisfied that the delay in filing of the appeal is for the bonafide reasons and not deliberate. The delay of 49 days in filing of the appeal is condoned and the appeal is admitted for hearing.

4. Shri Prakash Jhunjhunwala appearing on behalf of the assessee submitted that the CIT(A) in an ex parte proceedings has dismissed the appeal of assessee. He submitted that a perusal of the table at page 4 of the impugned order would show that three notices were issued to the assessee, out of which the last notice was issued on 08/08/2023 for hearing fixed on 01/08/2023. Hence, the last notice was invalid. In so far as first two notices are concerned the same were not received by the assessee. He prayed that if an opportunity is granted to the assessee, the assessee would appear before CIT(A) and make submissions on merits. He submitted that the assessee has prima-facie good case on merits.

5. Per contra, Shri Ashok Kumar Ambastha representing the Department submitted that the assessee has failed to respond to the notices issued by CIT(A). No plausible reason has been given by the assessee for non-appearance before the CIT(A).

6. Both sides heard, orders of authorities below examined. The assessee is in appeal against ex-parte order passed by the CIT(A). A perusal of the impugned order reveals that the CIT(A) had issued first notice on 08/09/2022

for hearing fixed on 23/09/2022. The assessee failed to respond to the said notice. The second notice was issued by the CIT(A) on 05/07/2023 for hearing fixed on 14/07/2023. Again assessee failed to comply with the notice. The third notice was issued by CIT(A) on 08/08/2023 for hearing fixed on 01/08/2023. The third notice is apparently defective. Taking into consideration entire facts, we deem it appropriate to restore this appeal to the file of CIT(A) for denovo adjudication after affording reasonable opportunity of hearing/making submissions to the assessee, in accordance with law. The assessee is directed to comply with the notice of hearing, issued and served by the First Appellate Authority. To ensure service of notice, the assessee is further directed to provide valid e-mail id to the CIT(A). The impugned order is set-aside and the appeal of assessee is allowed for statistical purpose with the aforesaid directions.

Order pronounced in the open court on Friday the 19th day of January, 2024.

Sd/-

(GAGAN GOYAL)

लेखाकार सदस्य / ACCOUNTANT MEMBER

मुंबई / Mumbai, दिनांक / Dated 19/01/2024

Vm, Sr. PS(O/S)

प्रतिलिपि अग्रेषित Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant ,
2. प्रतिवादी / The Respondent.
3. The PCIT
- 4.. विभागीय प्रतिनिधि, आय.अपी.अधि. , मुंबई /DR, ITAT, Mumbai
5. गार्ड फाइल / Guard file.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

BY ORDER,

//True Copy//

(Dy./Asstt.Registrar),ITAT, Mumbai