

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.830/Kol/2023
Assessment Year: 2017-18**

Vidyasagar Teacher Training College, Bhabanandapur, GodaAnnadaKalna, Panchrakhi, Burdwan, West Bengal-713122. (PAN: AAALV0338G)	Vs.	Income Tax Officer, Ward-4(3), Burdwan
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Miraj D. Shah, AR
Respondent by : Shri Subhro Das, Addl. CIT, Sr. DR

Date of Hearing : 31.01.2024
Date of Pronouncement : 07.02.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi vide order No. ITBA/NFAC/S/250/2022-23/10048084876(1) dated 19.12.2022 passed against the assessment order by ITO, Ward-2(4), Burdwan u/s.143(3) of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 30.12.2019 for AY 2017-18.

2. Though assessee has raised eight grounds of appeal but in ground no.2 assessee has contested that Ld. CIT(A) dismissed the appeal ignoring the adjournment filed by the assessee and passing the order ex parte.

3. We note that there is a delay of 174 days in filing the present appeal. Order of Ld. CIT(A) is dated 19.12.2022. For condoning the

delay, assessee has placed on record a petition as well as an affidavit whereby it is stated that notices for hearing were sent on e-mail ID bengalbs01@gmail.com which according to the assessee is not the correct e-mail address of the assessee. In Form No. 35, for filing appeal before the Ld. CIT(A), assessee had mentioned the e-mail ID as alamincometax27@gmail.com which was not used for communicating the notices fixed for hearing. Thus, assessee could not represent its case in the appellate proceeding. Assessee also stated that it never received the order on the e-mail ID given in Form 35. Later, on 20.04.2023 when assessee checked up the Income Tax Portal then it came to its knowledge that appellate order has been passed by the ld. CIT(A). Owing to these facts and circumstances a delay occurred in filing the present appeal before the Tribunal which is also the reason for not appearing before the Ld. CIT(A). Considering these facts and circumstances, we find it appropriate to condone the delay and take up the matter for adjudication.

4. Before us, Ld. Counsel for the assessee referred to para 3 of the order of Ld. CIT(A), whereby it is mentioned that assessee did not reply to the notices sent to it. Owing to such non-compliance, Ld. CIT(A) inferred that assessee is not interested in pursuing its appeal and thus dismissed the same. Ld. Counsel also referred to the e-mail ID mentioned in Form 35 to point out that this e-mail ID ought to have been used for communication with the assessee which was not done and hence, no representation can be made before the Ld. CIT(A). He thus pleaded that matter may be restored back to the file of Ld. CIT(A) by affording reasonable opportunity of being heard to the assessee and to make all the required submissions and explanation in support of the grounds raised.

5. Ld. Sr. DR when confronted with these submissions did not object to the same.

6. Taking into account the factual matrix of the case, we find it proper to remit the matter back to the file of Ld. CIT(A) with a direction to pass a speaking order after considering the submissions and explanations furnished by the assessee. Needless to say that assessee be given reasonable opportunity of being heard. We also direct the assessee to be diligent and not to seek adjournment unless warranted by compelling reasons for expeditious disposal of the appeal. Accordingly, we set aside the order of Ld. CIT(A) and restore the matter to his file for de novo adjudication.

7. Appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 07th February, 2024

Sd/-
(Sanjay Garg)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 07th February, 2024

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent.
 3. CIT(A), NFAC, Delhi
 4. CIT
 5. DR, ITAT, Kolkata Bench, Kolkata
- //True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata