

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'एसएमसी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.1135/Kol/2023
Assessment Year : 2016-17

Dreamland Place.....Appellant
8/2, K.S. Roy Road,
B.B.D. Bagh, Kol-1.
[PAN: AAIFD8986E]

vs.

ITO, Ward-6(1), Kolkata..... Respondent

Appearances by:

Shri Rajeeva Kumar, Advocate, appeared on behalf of the appellant.
Shri Subhro Das, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 01, 2024

Date of pronouncing the order : February 07, 2024

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 12.09.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. At the outset, the ld. counsel for the assessee has invited our attention to the impugned order of the CIT(A) to submit that the ld. CIT(A) has dismissed the appeal of the assessee holding that the same is barred by limitation. The ld. counsel in this respect has submitted that there was a delay of 139 days in filing the appeal before the CIT(A). The ld. counsel has further submitted that an application for condonation of delay has been filed before the CIT(A), wherein, it was pleaded before the CIT(A) that the aforesaid delay was due to unavoidable circumstances which was beyond the control of the

assessee. The ld. counsel has further submitted that in fact the order of the Assessing Officer was received on 15.12.2018 and the assessee had made preparation for filing the appeal, however, in the meantime, the accountant of the assessee has left and it was not brought to the knowledge of the assessee that the appeal has not been filed, resulting into the delay. The ld. counsel has submitted that in the interests of justice, the assessee may be given an opportunity to present its case before the CIT(A).

3. The ld. DR, on the other hand, has relied upon the order of the CIT(A).

4. Considering the above submissions of the ld. counsel for the assessee, in our view, the interests of justice will be well-served if the assessee is given an opportunity to present its case before the CIT(A). The delay in filing the appeal before the CIT(A) is hereby condoned and the matter is restored to the file of the CIT(A) with a direction to decide the appeal on merits after giving reasonable opportunity of hearing to the assessee.

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

Kolkata, the 7th February, 2024.

Sd/-

[गिरीश अग्रवाल /Girish Agrawal]
लेखा सदस्य/Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 07.02.2024.

RS

Copy of the order forwarded to:

1. Dreamland Place
2. ITO, Ward-6(1), Kolkata

- 3.CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches