

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**आ.अ.सं./I.T.A No.1492/Del/2023
निर्धारणवर्ष/Assessment Year: 2016-17**

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| Rasandik Engineering Industries India Limited, 14, Roz-ka-Meo Industrial Area, Sohna, Gurgaon, Haryana. PAN No. AAACR3381A | बनाम Vs. | ACIT Circle-19(1), C.R. Building, New Delhi. |
| अपीलार्थी Appellant | | प्रत्यर्थी/Respondent |

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| Assessee by | Shri K V S R Krishna, CA |
| Revenue by | Shri Vivek Vardhan, Sr. DR |

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| सुनवाईकीतारीख/ Date of hearing: | 03.01.2024 |
| उद्घोषणाकीतारीख/Pronouncement on | 21.03.2024 |

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the assessee against the order of the Ld.CIT(Appeals)-(NFAC), New Delhi dated 27.03.2023 for the AY 2016-17.

2. Ld. Counsel for the assessee, at the outset, submits that the appeal was disposed of by an *ex parte* order without considering the submissions of the assessee.

2.1 Ld. Counsel for the assessee further submitted as under: -

“Sequence of Dates of Issue of Notice and Response of the Assessee

| SRL. | DATE OF NOTICE | RESPONSE OF ASSESEE | REMARKS |
|------|-------------------|--|---|
| 1. | 4.4.2019 & 6.4.19 | Assessee responded vide letter dated 22-Apr-19 and the case was adjourned for 8-May-19 | Proceedings were at that particular point of time posted for hearing on physical mode, copy of the notice from CIT(A)-22 is enclosed. However, the department was transition to faceless appeals as informed to assessee. |
| 2 | 9.12.2020 | Notice from NFAC fixing date of hearing on 24.12.2020. | Letter dated 27.1.2021 responding to the notice for hearing on 24.12.2020 seeking further time due to Covid condition of the concerned staff, copy of the letter enclosed. |
| 3 | 2.11.2022 | Intimation that the communication window with the CIT(A) has been enabled. | Therefore, this was the first time when the NFAC has enabled the communication window to the assessee. |
| 4 | 20.02.2023 | Fixing date of hearing on 27.02.2023. | Assessee filed letter for adjournment which was received by CPC, copy enclosed requesting sometime. |

Therefore, from the above sequence of events, it may kindly be noted that the assessee was responding to the notices and was serious about the appeal. However, after the enabling of communication email sent on 2-Nov-22 only one hearing was fixed namely on 27.02.23 for which the assessee had also moved application for adjournment.

Therefore, due to lack of adequate opportunity the assessee could not prosecute the appeal. In the interest of natural justice, the appeal before your Honours may kindly be heard on merits and adjudicated.”

3. On a query from the Bench as to whether the appeal can be restored to the file of the Ld.CIT(Appeals) as the order of the Ld.CIT(A) is very cryptic and no independent finding on the

submissions made by the assessee, the Ld. DR expressed no serious objection.

4. Considering the rival submissions and perusing the order of the Ld.CIT(A), we are of the considered view that this appeal should go back to the file of the Ld.CIT(A) for fresh adjudication in accordance with law after providing adequate opportunity of being heard to the assessee. Thus, this appeal is restored to the file of the Ld.CIT(A).

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

Order pronounced in the open court on 21/03/2024

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 21/03/2024

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT
(DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi