

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'A', KOLKATA

[Before Shri Rajesh Kumar, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 896/Kol/2023
Assessment Year : 2012-13

M/s. Strenuous Exim Private Limited	vs	ITO, Ward-2(1), Kolkata
PAN: AASCS 7660 P		
Appellant		Respondent

Date of Hearing	12.03.2024
Date of Pronouncement	19.03.2024
For the Assessee	Shri Ankit Jalan, AR
For the Revenue	Shri B.K. Singh, JCIT, Sr. DR

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2012-13 is directed against the order dated 30.01.2019 passed by the ld. Commissioner of Income-tax (Appeals)-1, Kolkata [hereinafter referred to as 'the ld. CIT(A)'].

2. At the time of hearing, the ld. AR stated that there is a delay of 1549 days in filing the appeal by the assessee against the impugned order passed by ld. CIT(A) dated 30.01.2019. This is due to the fact that an assessment order has been passed by ld. AO against the assessee u/s 144 of the Act vide order dated 10.03.2015 against which assessee preferred an appeal before the ld. CIT(A) which was dismissed on 30.01.2019. However, assessee was not aware of the fact about passing of such impugned order against it. The assessee getting the information about the fact as and when received a notice from NFAC portal about pending of the appeal against the same

assessment order dated 10.03.2015 which was challenged by the assessee before the ld. CIT(A) for adjudication. In the intervening time, NFAC has passed an order dated 19.06.2023 by dismissing the appeal of the assessee stating that appeal filed by the assessee against the assessment order dated 10.03.2015 was already disposed off by the erstwhile ld. CIT(A), Kolkata vide order dated 30.01.2019. Due to the above reason, there was a delay of 1549 days in filing the appeal of the assessee. The assessee stated that the delay was not deliberate on the part of assessee it is only due to non-getting of any notice of order from the competent authority by the assessee. Therefore, ld. AR prayed before the bench to condone the delay in filing the appeal by the assessee.

3. We after hearing the submission of the AR of the assessee find that there is a reasonable cause for delay in filing the appeal on the part of the assessee. Accordingly, we condone the delay in filing the instant appeal of the assessee.

4. The ld. AR stated before the bench that while passing both the order by ld. AO as well as ld. CIT(A) no notice was served on the assessee and both the orders are ex-parte order against the assessee. Due to which assessee could not take any reasonable opportunity to file its document in order to substantiate its claim before the authorities below. The ld. AR therefore prayed before the bench to set aside the impugned order passed by the authorities below to the file of AO with the direction to re-examine the issue

afresh after affording reasonable opportunity of being heard to the assessee.

5. On the other hand, ld. DR objected to such prayer made by the assessee.

6. We after hearing the rival submission of the parties and perusing the material available on record find that both the impugned orders passed by authorities below are ex-parte orders and the assessee did not get any opportunity to file its submission in order to substantiate its claim. Therefore, it is necessary to remand back the whole issue to the file of AO with the direction to re-examine the issue afresh after affording reasonable opportunity of being heard to the assessee. The assessee is also directed to furnish supporting documents before the AO as and when asked by the AO. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

7. In the result, the appeal of the assessee is stands allowed for statistical purposes.

Order pronounced in the open court on 19.03.2024.

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 19.03.2024
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s. Strenuous Exim Private Limited, 15, Dharma Das Ganguly Lane, Howrah-700010.
2. Respondent – ITO, Ward-2(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata