

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES,"SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष  
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 701/JP/2023  
निर्धारण वर्ष / Assessment Year : 2013-14

M/s Jaipur Gem Crafts Behind Golimar Garden Amer Road, Jaipur	बनाम Vs.	The ITO Ward 5(1) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AABFJ 4618 E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Sanjay Godha, CA  
राजस्व की ओर से / Revenue by: Smt. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 20/03/2024  
उदघोषणा की तारीख / Date of Pronouncement: 27 /03/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the Id. CIT(A) dated 21-09-2023, National Faceless Appeal Centre, Delhi [ hereinafter referred to as (NFAC) ] for the assessment year 2013-14 raising grounds of appeal at Form No. 36.

2.1 At the outset of the hearing, the Bench noted that the Id. CIT(A) passed an ex-parte order by dismissing the appeal of the assessee and the narration as mentioned therein are as under:-

“4.8. The appellant has not explained this delay in filing of appeal and has therefore failed to discharge the onus cast upon it.

5. Therefore, in accordance with the provisions of Section 249(2) of the Act and after careful consideration of the various judicial principles as laid down in the various judgements quoted above, the appeal filed by the appellant is barred by limitation, hence not admitted and no explanation has been offered by the appellant as per Section 249(3) of the Act. The appeal is, therefore, dismissed.

It is also noted from the submissions of the ld. AR of the assessee wherein the assessee prayed for condonation of delay as to filing of the appeal before the ld. CIT(A) on the ground *that since he was busy in last dates of filing income tax returns he forgot to file the appeal online. Later on, when he found the papers and submitted the appeal online on 10-06-2020. The affidavit of the employees of the A/R in respect of the same is filed (PB 12).* However, the ld. DR opposed the same. The Bench considered the submission and noted that under such circumstances the delay is condoned in view of the affidavit of the ld AR of the assessee.

2.2 After hearing both the parties and perusing the materials available on record, it is noted that the assessee had filed submissions and evidences relating to the case before the ld. CIT(A) but on the ground of delay the ld. CIT(A) dismissed the appeal. It is also noted that the ld. AR of the assessee prayed for one more chance

to contest the case before the ld.CIT(A) while as the ld. DR relied on the order of the ld. CIT(A). The Bench feels that one more chance may be given to the Assessee to contest the case before the ld.CIT(A) and the appeal is restored to the file of the ld. CIT(A) for afresh adjudication and the assessee will submit the necessary documents / evidences concerning the above mentioned appeal. However, for lethargic and negligent action on the part of the assessee, therefore a cost of Rs.2,000/- is imposed upon the assessee and the same shall be deposited in the Prime Minister Relief Fund and copy of the same shall be submitted to the ld CIT(A) for proof and thus the appeal of the assessee is restored to the file of the ld. CIT(A) to decide it afresh by providing one more opportunity of hearing, however, the assessee will not seek any adjournment on frivolous ground and remain cooperative during the course of proceedings. Thus the appeal of the assessee is allowed for statistical purposes.

2.3 Before parting, the Bench makes it clear that its decision to restore the matter back to the file of the ld. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by ld. CIT(A) independently in accordance with law.

3.0 In the result, the appeal of the assessee is allowed for statistical purposes

Order pronounced in the open court on 27/03/2024.

Sd/-

(संदीप गोसाईं)  
(Sandeep Gosain)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 27/03/2024

**\*Mishra**

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- M/s. Jaipur Gem Crafts, Jaipur
2. प्रत्यर्था / The Respondent- The ITO, Ward 5(1), Jaipur
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 701/JP/2023)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar