

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. 113/JP/2024  
निर्धारण वर्ष / Assessment Year : 2017-18

M/s. Curewell Cardiac Lab Lakhanda Wala Kuan, RSEB Circle Alwar 301 001 (Raj)	बनाम Vs.	The ACIT Circle-1 Alwar
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAKFC 2025 P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

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

सुनवाई की तारीख / Date of Hearing : 19/03/2024  
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 13-10-2023, National Faceless Appeal Centre, Delhi [ hereinafter referred to as (NFAC) ] for the assessment year 2017-18 raising grounds of appeal at Form No. 36.

2.1 At the outset of the hearing, the Bench noted that there is delay of 57 days in filing the appeal by the assessee for which the assessee filed an application dated

07-02-2024 for condonation of delay alongwith affidavit of its partner Shri Kuldeep Singh Arya who mainly deposed as under:-

“3. That in the e-filing portal, the primary registered e-mail ID mentioned was vishalwadhva@yahoo.in and premarly registered mobile no. mentioned was 97854-07712. Both the e-mail and mobile no. was of our employee CA Vishal Wadhva who left the firm on March 2020. AfterShri Vishal Wadhava left the firm, we forgot to change the registered e-mail and mobile no. in the e-filing portal.

4. That the firm received the demand recovery letter dated 10-01-2024 for AY 2017-18. Thereafter when I checked the present status of appeal on the e-filing portal on 13-01-2024, I found that the ld. CIT(A), NFAC has already passed the ex-parte order on 13-10-2023.

5. That the hearing notices issued by ld. CIT(A), NFAC and order passed was sent at the primary registered e-mail ID which pertained to our earlier employee CA Vishal Wadhva and not on the communication address provided in Form 35. CA Vishal Wadhva did not communicate the receipt of hearing notice/ order to us and therefore neither the submission could be filed nor the order came to my notice.

6. That on 13-01-2024 I have changed the primary registered mail and primary registered mobile no. which is now duly accessible by me.

7. That I am now filing the appeal against this order with the request to condone the delay which is for the reason stated above.”

2.2 On the other hand, the ld. DR objected to such delay made by the assessee in filing the appeal.

2.3 We have heard both the parties and perused the affidavit of the assessee and feel that there is a merit in the submission of the assessee and thus in view of the affidavit of the assessee, the delay in filing the appeal by the assessee is condoned.

3.1 Further the Bench at the time of hearing of the appeal noted that the ld. CIT(A) passed an ex-parte order by dismissing the appeal of the assessee and the narration as mentioned therein are as under:-

“6.2 It can be seen that the assessee has not furnished any reply nor has he sought adjournment and has not give any factual or legal details to come to conclusion different from that of AO.

6.3 Even otherwise, it was for assessee to furnish cogent evidence in support of its original grounds of appeal. This has not been done. Onus cannot be case on this office to be an adjudicator and also a lawyer for the assessee when asessee is itself lax and uninterested in pursuing of his own appeal.

6.4 As a result, the appeal is held to be without merit and the same is hence dismissed.

3.2 After hearing both the parties and perusing the materials available on record, it is noted that the assessee has not filed any submissions and evidences relating to the case before the ld. CIT(A) and thus the ld. CIT(A) dismissed the appeal with following narration”

6.3 Even otherwise, it was for assessee to furnish cogent evidence in support of its original grounds of appeal. This has not been done. Onus cannot be case on this office to be

an adjudicator and also a lawyer for the assessee when assessee is itself lax and uninterested in pursuing of his own appeal.

6.4 As a result, the appeal is held to be without merit and the same is hence dismissed.

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.

3.3 Before parting, we may make it clear that our 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.

4.0 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. Curewell Cardiac Lab, Alwar
2. प्रत्यर्थी / The Respondent- The ACIT, Circle-1, Alwar
3. आयकर आयुक्त / The ld CIT
4. आयकर आयुक्त(अपील) / The ld CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 113/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar