

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 114/Kol/2024
Assessment Year: 2013-14

Jolen Marketing Private Limited 16A, Shakespeare Sarani 5 th Floor Kolkata - 700071 [PAN: AAACJ7920R]	Vs	Income Tax Officer, Ward-8(2), Kolkata
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Smt. Vidhi Ladia, C.A.
Revenue by :	Shri P.P. Barman, Addl. CIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 02/04/2024
घोषणा की तारीख/Date of Pronouncement : 16/04/2024

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER:

The instant appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi [hereinafter the "1d. First Appellate Authority"] dt. 30/11/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2013-14.

2. At the outset, the 1d. Counsel for the assessee submitted that, the 1d. CIT(A) erred in dismissing the assessee's appeal treating it as invalid and *void ab initio*, only for the reason that it was furnished in paper form and not in the prescribed verified manner as per the provisions of Section 249 of the Act. She submitted that against the assessment order dt. 21/03/2016, an appeal was filed manually on 31/03/2016. At that point of time, new procedures came into force and after 01/03/2016,

assessee was required to e-file the appeal. Though the assessee paid the requested fees and filed the appeal manually, at a subsequent date i.e., 04/11/2023, it again e-filed the appeal. However, the ld. First Appellate Authority, without considering the factual matrix has dismissed the appeal *in limine* treating it as invalid. She prayed that the matter may be restored to the ld. First Appellate Authority, and to decide the appeal on merits.

On the other hand, the ld. D/R submitted that the assessee had furnished the e-appeal and, therefore, the appeal of the assessee has rightly been dismissed by the ld. First Appellate Authority.

3. We have heard the rival contentions and perused the material placed before us. We notice that the assessee is a private limited company engaged in the business of trading in shares and securities. Income of Rs. 3,89,065/- was declared in the return for Assessment Year 2013-14 furnished on 18/09/2013. In the assessment proceedings carried out u/s 143(3) of the Act, certain additions were made. The assessment order was framed on 21/03/2016. Immediately after receiving the assessment order, the assessee within the statutory time limit filed the appeal before the ld. First Appellate Authority, manually on 31/03/2016. Requisite fees was also deposited. The assessee was required to furnish the appeal in e-form as per the amended procedures of the income tax department which required to file appeal in e-form before the ld. First Appellate Authority on and from 01/03/2016. It is also brought to our notice that assessee again e-filed the appeal on

04/11/2023 against the very same assessment order. Now, a typical situation has arisen. On one hand, the assessee has manually filed the appeal and paid the requisite fees but it was required to be e-filed. Further mentioning the same fee *challan*, the assessee has again filed the e-appeal on 04/11/2023. So, against the assessment order for Assessment Year 2013-14, dt. 21/03/2016, two appeals have been filed. Now, the Id. CIT(A) has dismissed the appeal furnished by the assessee manually on 31/03/2016 treating it as invalid but has not passed any order against the appeal e-filed on 04/11/2023. The correct procedure should have been that he should have taken both the appeals together and then should have decided the appeals filed on 04/11/2023 on merits and dismissed the appeal filed manually. But now the appeal filed manually has been dismissed by Id. CIT(A) and the appeal e-filed on 04/11/2023 is still pending for disposal. It is quite evident that when the appeal filed on 04/11/2023 will come up for adjudication before the Id. First Appellate Authority, the fair possibility will be that the same would be dismissed for delay in filing the appeal. As informed by Id. A/R, that appeal e-filed on 04/11/2023 is still pending for disposal at CIT(A) level.

4. Under these given facts and circumstances, where the e-filing of appeal were introduced only from 01/03/2016 and as on that date, the statutory time limit of 30 days for filing the appeal from the date of receiving the assessment order, did not expire, the appeal manually filed by the assessee ought to have been accepted and decided on merits. We in the interest of justice and being fair to both the parties restore all the

issues raised on merit to the file of the ld. CIT(A). The ld. CIT(A) is, therefore, directed to afford reasonable opportunity of hearing to the assessee and to adjudicate the issues raised on merits.

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

Order pronounced in the Court on 16th April, 2024 at Kolkata.

Sd/-
(RAJPAL YADAV)
VICE PRESIDENT

Sd/-
(DR. MANISH BORAD)
ACCOUNTANT MEMBER

Kolkata, Dated 16/04/2024

SC Spd

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata