

आयकर अपीलीय अधिकरण
कोलकाता 'सी' पीठ, कोलकाता में
IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA

डॉ. मनीष बोर्ड, लेखा सदस्य
एवं
श्री संजय शर्मा, न्यायिक सदस्य
के समक्ष
Before

DR. MANISH BORAD, ACCOUNTANT MEMBER
&
SONJOY SARMA, JUDICIAL MEMBER

I.T.A. No.: 774/Kol/2023
Assessment Year: 2012-13

Debanjali Sengupta.....*Appellant*
[PAN: AESPM 9498 Q]

Vs.

ACIT, Circle-61, Kolkata.....*Respondent*

Appearances:

Assessee represented by: Vishal Kalra, A/R.

Department represented by: Arun Kanti Dutta, Addl. CIT, Sr. D/R.

Date of concluding the hearing : April 17th, 2024

Date of pronouncing the order : April 19th, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2012-13 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Id. Commissioner of Income-tax (Appeals)-NFAC, Delhi [in short Id. 'CIT(A)'] dated 29.05.2023.

2. At the outset, Id. A/R stated that the Id. CIT(A) has erred in not condoning the delay in filing the appeal even though sufficient cause for delay was demonstrated by the assessee, therefore, passing the impugned order is

against the principles of natural justice. Therefore, the impugned order needed to be set aside to the file of the ld. CIT(A) with a direction to re-examine the issue afresh after considering such prayer for condonation of delay in filing the appeal by the assessee before ld. CIT(A).

3. On the other hand, ld. D/R supported the order passed by the ld. CIT(A) stating that there was a substantial delay of 1618 days while filing the appeal by the assessee before ld. CIT(A). Therefore, such prayer may be rejected by this Tribunal.

4. After hearing rival submissions of both the parties and perusing the material available in the record, we find that the assessee has challenged the assessment order dated 25.03.2015 before ld. CIT(A), where there was delay of 1618 days in filing the appeal before ld. CIT(A). The assessee has stated that against the same order, assessee has also filed a rectification application before the ld. AO which notice was also never served upon the assessee. Therefore, assessee was not aware of the fact of such order passed against the assessee. Ultimately when the assessee visited the office of the AO, came to know that rectification petition has already been dismissed. Therefore, assessee has no other option but to prefer an appeal against the original assessment order dated 25.03.2015 before ld. CIT(A) with a prayer for condonation of such delay. However, while passing the order, the ld. CIT(A) did not consider such prayer of the assessee by simply rejected the condonation of such delay by dismissing the appeal of the assessee.

5. We, therefore, considering the facts of the case and after hearing the rival submissions of the parties, find that since the impugned order was passed without considering the merit of the case by simply dismissing the appeal of the assessee. We therefore, remand back the whole issue to the file of ld. CIT(A) with a direction to re-consider the prayer of the assessee by condoning such delay and hear the issues on merit of the case. The assessee is also directed to appear before the ld. CIT(A) as and when notice would serve

upon her. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 19th April, 2024.

Sd/-

[Manish Borad]

Accountant Member

Sd/-

[Sonjoy Sarma]

Judicial Member

Dated: 19.04.2024

Bidhan (P.S.)

Copy of the order forwarded to:

1. **Debanjali Sengupta, Villa 21, Prestige Ozone, Whitefield Main Road, Bangalore-560 066.**
2. **ACIT, Circle-61, Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

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By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata