

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM**

आयकरअपील सं./ ITA No.204/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)

M/s. Usha Electric & Refrigeration
Company,
105, Mount Road,
Chennai 600 002.

Vs. The Income Tax Officer,
Non Corporate Ward 9(5)
(now Non Corporate Ward 9(1))
Chennai 600 034.

[PAN: AAUFU 0193Q]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: None

प्रत्यर्थी की ओर से /Respondent by

: Shri. P. Sajit Kumar, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 17.04.2024

घोषणा की तारीख /Date of Pronouncement

: 17.04.2024

आदेश / ORDER

MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax(Appeals)(NFAC) Delhi [CIT(A)] vide order No. ITBA/NFAC/S/250/2023-24/1057211988 (1) dated 19.10.2023.The assessment was framed by the Income Tax Officer, Non Corporate Ward 9(5), Chennai for the assessment year 2017-18 passed u/s.143(3) of

the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 27.12.2019.

2. At the outset, it is noticed by the registry that the appeal filed by the assessee is barred by limitation by 37 days. The order of CIT(A) dated 19.10.2023 was communicated to the assessee on 19.10.2023 as per Form 36. The appeal has to be filed on or before 18.12.2023 but was filed only on 25.01.2024. Considering the period of delay and reasons deposed at paras 3 and 4 of affidavit given by partner of firm, we condone the delay and admit the appeal for adjudication.

3. Brief facts of the case are that the Id. Assessing Officer has made an addition on account of lower gross profit and an addition of cash deposited during demonetization period.

4. In the instant case, the appellant filed the appeal against the order under section 143(3) of the Act dated 27.12.2019 before the Ld. CIT(A) wherein the assessee did not appear before the first appellate authority. Accordingly, the assessment was confirmed on merits and appeal was disposed of ex-parte on the basis of statements of facts filed by the Assessee against which assessee is in further appeal before us.

5. At the time of hearing before us none appeared for the assessee.

6. Per contra, the Ld. Senior Departmental Representative pleaded for dismissal of the appeal on the ground that the assessee failed to appear before the Id. first appellate authority.

7. We have heard Id. Senior DR and gone through facts and circumstances of the case. Though we concur with the submissions of Ld. Sr. DR however keeping in mind the principle of natural justice, grant another opportunity of hearing to the assessee. Accordingly, the impugned order is set aside and the appeal is restored back to the file of Ld. CIT(A) for adjudication on merits after affording proper opportunity of hearing to the assessee. The assessee is directed to substantiate its case forthwith without any fail, failing which Ld. CIT(A) shall be at liberty to proceed with the disposal of the appeal on merits.

8. In the result, the appeal of the assessee in ITA No.204/Chny/2024 for assessment year 2017-2018 is allowed for statistical purpose.

Order pronounced in the open court at the time of hearing on 17th day of April , 2024,
at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated :17-04-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF