आयकर अपीलीय अधिकरण
पटना पीठ, कोलकाता में

IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA

[वर्चुअल कोर्ट]
[Virtual Court]

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

Before

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

I.T.A. No.: 229/PAT/2024
Assessment Year: 2018-19

Sunil Kumar Yadav.....Appellant
[PAN: ADMPY 6870 D]

Vs.

ITO, Ward-2(2), Chapra.....Respondent

Appearances:

Assessee represented by: *Narendra Kumar, Adv. &*
Pranav Ranjan, Adv.

Department represented by: *Sushil Kumar Mishra, JCIT, D/R.*

Date of concluding the hearing : March 4th, 2024
Date of pronouncing the order : April 30th, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2018-19 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by ld. Commissioner of Income-tax (Appeals)-NFAC, Delhi [in short ld. 'CIT(A)'] dated 22.10.2023.

2. At the outset ld. Counsel for the assessee stated that there is a delay of 39 days in filing the appeal before this Tribunal and in this regard the

assessee has also filed a petition stating the reason behind such a delay and praying before the Bench to condone such delay.

3. We, after going through the petition filed by the assessee, find that during the pendency of the income tax proceeding, the assessee was suffering from various ailments and could not take up proper steps before the competent authority in due course. Therefore, such delay was happened in filing the appeal before this Tribunal. Accordingly, we condone such delay of 35 days in filing the appeal before this Tribunal. Ld. Counsel for the assessee further stated that while pendency of the income tax proceeding before ld. AO as well as ld. CIT(A) the assessee could not take proper steps as the assessee was suffering from cancer. Due to this, no proper steps could be taken before ld. AO as well as ld. CIT(A). Even while filing the appeal before ld. CIT(A) there was a delay of 129 days in filing the appeal by the assessee. However, ld. CIT(A) did not condone such delay and decided the appeal simply retreating the assessment order passed by the AO by dismissing the appeal of the assessee. He therefore, prayed before the bench that after considering the above stated facts, the matter may be remand back to the file of ld. AO with the direction to re-examine the issue afresh after affording reasonable opportunity of being heard to the assessee and the ld. Counsel for the assessee undertook that the assessee would appear as and when notice for hearing would be issued upon the assessee without any fail.

4. On the other hand, ld. D/R did not object to such prayer of the assessee.

5. Since the assessee was suffering from critical ailments during the pendency of income tax proceeding before the authorities below due to which the assessee could not take proper steps, hence both the orders were *ex-parte* against the assessee. We therefore, considering the submissions of both the parties remand back the whole issue to the file of ld. AO with a direction to re-examine the issue afresh after affording reasonable opportunity of being heard to the assessee.

6. In terms of the above, appeal of the assessee is hereby allowed for statistical purposes.

Order pronounced in the open Court on 30th April, 2024.

Sd/-	*Sd/-*
[**Manish Borad**]	[**Sonjoy Sarma**]
Accountant Member	Judicial Member

Dated: 30.04.2024

Bidhan (P.S.)

Copy of the order forwarded to:

1. ***Sunil Kumar Yadav, Village- Rampur, Marhowra, Chapra, District-Saran, PIN- 841 442.***
2. ***ITO, Ward-2(2), Chapra.***
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(D/R), Patna Bench, Patna.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata