

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

BEFORE SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 283/Kol/2024
Assessment Year: 2017-18

Ashit Kumar Deb 2/240 Sree Colony Regent Estate Baghajatin Kolkata - 700092 [PAN : AQCPD6452F]	Vs	Income tax Officer, Ward-25(2), Kolkata
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Arvind Agarwal, Advocate
Revenue by :	Smt. Monalisha Pal Mukherjee, JCIT, D/R

सुनवाई की तारीख/Date of Hearing : 30/05/2024
घोषणा की तारीख /Date of Pronouncement: 31/05/2024

आदेश/ORDER

PER SONJOY SARMA, JUDICIAL MEMBER :

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre (hereinafter the "ld. CIT(A)") dt. 02/09/2022, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2017-18.

2. At the time of hearing the registry has informed that the present appeal filed by the assessee is time barred by 104 days. The assessee prayed for condonation of the delay. The reasons are placed on record. We, after perusing the same as well as material available on record find merit in the reasonable cause stated by the assessee, which prevented him to file the appeal within the

statutory time limit and also in the larger interest of justice, condone the delay and admit the appeal for adjudication.

3. The ld. Counsel for the assessee at the very outset submitted that though the assessee has taken several grounds of appeal, but his preliminary grievance is that both the ld. CIT(A) as well as the ld. Assessing Officer have passed an *ex-parte* orders. He submitted that if given an opportunity, the assessee stands a fair chance of succeeding on merits. He prayed for the matter to be restored to the ld. Assessing Officer.

The ld. D/R, though not leaving her grounds, did not oppose to this request of the ld. Counsel for the assessee.

3. We heard the rival submission and considered the documents available in the record. The assessee's case has been adjudicated *ex parte* in both the appeal and assessment stage. The assessee specifically mentioned about the denial of reasonable opportunity of being heard. On a query from the Bench to explain the reasons behind such non-appearance before the authorities below, the ld. A/R stated that it has happened due to a change in the e-mail id by one of its engaged employee, provided while filing the return of income due to which all notices of hearing were sent to the incorrect e-mail id provided by the assessee's employee Mr. Sunil Neogi and who did not communicate the assessee about the receipt of notice from time to time. Under these circumstances, we find that the assessee should get another opportunity to present its case

before the revenue authorities. The ld. D/R had not made any strong objection against the view of the Bench. Therefore, in the interest of justice and fairplay, we remit back the matter to the ld. Assessing Officer for *de novo* assessment, in accordance with law. Needless to say, the assessee should get a reasonable opportunity of hearing in set aside proceedings.

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

Order pronounced in the Court on 31st May, 2024 at Kolkata.

Sd/-

**(RAKESH MISHRA)
ACCOUNTANT MEMBER**

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Kolkata, Dated 31/05/2024

SC Sarma

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

1. अपीलार्थी / The Assessee
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