

**IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'SMC', KOLKATA**

[Before Shri Rajesh Kumar, Accountant Member &  
Shri Sonjoy Sarma, Judicial Member]

**I.T.A. No. 224/Kol/2024**  
**Assessment Year : 2017-18**

Lakshman Saw	vs	ITO, Ward-25(1), Kolkata
PAN: ERUPS 9371 H		
Appellant		Respondent

Date of Hearing	03.06.2024
Date of Pronouncement	05.06.2024
For the Assessee	Shri Jaydeep Chakraborty, Advocate
For the Revenue	Shri Pradip Kumar Biswas, Addl. CIT

**ORDER**

**Per Sonjoy Sarma, JM:**

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)"] dated 09.09.2022 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 454 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.

3. We after hearing the submissions of the parties and perusing the condonation of delay petition filed by the assessee find that the assessee has explained the reason for late filing of appeal which seems to have sufficient and reasonable. Moreover, making the appeal time barred has not been used by the assessee as tactics to avoid the litigation with the revenue because such strategy would not give any benefit to the assessee in this type of litigation. Therefore, we condone the delay in filing the appeal by assessee.

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 therefore prayed before the bench stating that matter may be restored to the ld. assessing officer. The ld. DR though not leaving her grounds, did not oppose to this request of the ld. counsel for the assessee.

4. We have heard the rival submission of the parties and considering the documents available on 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. AR stated that it has happened due to non-appearance of AR of the assessee to whom assessee entrust the case to argue before the authorities below. However, the then ld. AR did not turn up before the authorities below which lead to pass ex-parte order against the assessee. He, therefore, prayed before the bench that matter may be remand back to AO for de novo assessment on the issue involved in the appeal.

5. In these circumstances, we find that assessee should get another opportunity to present its case before the revenue authorities. The ld. DR had not made any strong objection against the view of the bench. Therefore, in the interest of justice and fair play we remit back the matter to the ld. assessing officer for de novo assessment in accordance with law. Needless to say, assessee should get reasonable opportunity of hearing in set aside proceedings.

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

Order pronounced in the open court on 05.06.2024.

Sd/-

Sd/-

(Rajesh Kumar)  
Accountant Member

(Sonjoy Sarma)  
Judicial Member

Dated: 05.06.2024

*Biswajit, Sr. PS*

Copy of the order forwarded to:

1. Appellant- Lakshman Saw, 1, Dakshin Bigdhangarh, West Bengal-700066.
2. Respondent – ITO, Ward-25(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata