

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “एसमसी”, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH: KOLKATA**  
श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्यके समक्ष  
[Before Shri Rajesh Kumar, Accountant Member&Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. No. 884/Kol/2024**  
**Assessment Year: 2015-16**

AVR Hotels & Resorts pvt. Ltd.  (PAN: AAFCA 3334 H)	Vs.	ACIT(OSD), Ward-8(1), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	11.07.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	06.08.2024
For the Appellant/ निर्धारिती की ओर से	Saswati Mitra Dutta, Advocate Rajashree Dutta, Advocate
For the Respondent/ राजस्व की ओर से	Sallong Yaden, Addl. CIT (DR)

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-ADDL/JCIT(A), Pune dated 15.02.2024 for the AY 2015-16.

2. At the outset, We note that the appeal of the assessee is barred by limitation by 8 days. After taking into consideration the condonation petition filed by the assessee and reasons for late filing of appeal as cited before us, we are of the view that the

delay in filing the appeal is for bonafide and genuine reasons and accordingly the delay of 8 days is condoned and appeal is admitted for adjudication.

3. At the outset, we note that the appeal of the assessee has been decided by the Ld. CIT(A) ex-parte dismissing the same in limine for not presenting the appeal in terms of Section 249(3) of the Act and also there being not substantial and cogent reasons for not presenting the appeal within the time allowed. The appeal was late by 24 days as per the Ld CIT(A). Thus the appeal of the assessee was decided without deciding the issues on merit by the First Appellate Authority. In our opinion the said order is not in consonance with the provisions of section 250(6) of the Act which mandatorily require the Ld CIT(A) to dispose of the appeal by stating the point of determination, decision thereon and reasons for such decision. Therefore the present appeal needs to be restored to the file of Ld. CIT(A) so that the appeal could be decided on merit in view of principle of natural justice and fair play. Accordingly we restore the appeal to the file of Ld. CIT(A) with the direction to decide the same on merit after affording a reasonable opportunity of hearing to the assessee.

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

Order is pronounced in the open court on 6<sup>th</sup> August, 2024

Sd/-

Sd/-

( Pradip Kumar Choubey /प्रदीप कुमार चौबे)  
Judicial Member/न्यायिक सदस्य

(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 6<sup>th</sup> August, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- AVR Hotels & Resorts Pvt. Ltd., 141, T. N. Banerjee Road, Panihati, North 24 Parganas-700114
2. Respondent – ACIT(OSD), Ward-8(1), Kolkata
3. Ld. CIT(A)- ADDL/JCIT(A)-Pune
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata