

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH, DELHI**

**BEFORE MS.MADHUMITA ROY, JUDICIAL MEMBER &  
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No. 2056/Del/2024  
(Assessment Year 2016-17)**

Jitender Ahuja BP- 171, Shalimar Bagh Delhi – 110085	Vs.	ACIT, Circle 8 Delhi
स्थायीलेखासं. / जीआइआरसं. / PAN/GIR No: AEHPA8577P		
Appellant	..	Respondent

Appellant by :	Sh. Rakesh Jain
Respondent by :	Sh. Om Prakash

Date of Hearing	05.08.2024
Date of Pronouncement	07.08.2024

**ORDER**

**PER MADHUMITA ROY, JM:**

The instant appeal filed by the assessee is directed against the order dated 10.05.2023 passed by the Ld. CIT(A)-24 New Delhi arising out of the order dated 27.12.2018 passed by the ACIT,

Central Circle-8, New Delhi under Section 143(3) of the Act for Assessment Year 2016-17.

2. As the appeal is barred by limitation for 290 days, the assessee therefore, has filed an application for condonation of delay, the contents whereof is as follows:

- “2. That Ld CIT(A)-24. Delhi passed the order on Di. 10.05.2023 hereby dismissing assessee's appeal.
3. Assessee received the Ld. CTT(A)-24. Delhi order u/s 250 on dt 10:05 2023 Son our appeal the limitation of filing appeal expired on alt 09.07 2023 Thus, there is a delay of 2 days in tiling of the said appeal, calculated from dt 0907 2023 which is being prayed for condonation of delay for the reason extracted hereunder and substantiated through the affidavit of sat Pg. 12.
4. The Advocate (Counsel) had carefully kept the papers in file for filing an appeal before ITAT Wherein, he forgot to file the same in TAI on time for challenging the same for appeal proceedings.
5. The aforesaid inaction for the pendency of appeal not having been filed came to knowledge on Dt. 02.04.2024 when penalty notice was received. At that time it was revealed that the appeal challenging the order Dt. 10.05.2023 has not been filed and whereupon the case papers namely the impugned order had been given to the Ld Consultant for preparation and tiling of appeal.
6. On Dt 02.04 2024 onward again the efforts were undertaken to file the appeal and the case papers were traced by the counsel for preparing and filing the appeal in this Hon'ble ITAT.
7. The humble prayer is being made that the aforesaid delay is unintentional and inadvertent mistake and this is the cause wherein, the humble pleading is for condoning the delay attributable to the aforesaid reason as the assessee would suffer since even there is a case prima face wherein the assessee is likely to succeed on the interpretation of the principles of law in the interest of justice.

Thus under the aforesaid facts and circumstances and nature of case, the humble prayer is for condoning the delay and granting the opportunity for hearing the case in the interest of substantial justice for decision in accordance with law.”

3. Having regard to the explanation rendered by the assessee in support of the delay in preferring the appeal before us no intentional laches on the part of the assessee is found. Therefore, the delay is condoned.

4. At the time of hearing of the instant appeal the Ld. Counsel appearing for the assessee submitted before us that the Ld. CIT(A) passed the order ex-parte as the assessee did not appear before him in terms of the notice issued upon the assessee by him. In this regard, it was submitted by him that the notices were not sent to the email id. made available with the department but were only reflecting in the e-portal of the respondent. In that view of the matter as the assessee not having been able to appear before First Appellate Authority, the appeal was finalized ex-parte. Such contention made by the assessee's counsel has not been able to be controverted by the Ld. D.R.

5. Thus, having regard to the facts and circumstances of the matter we find that the assessee is required to be given a further opportunity of being heard by the First Appellate Authority and therefore, in order to prevent the miscarriage of justice we quash the order impugned and set aside the issue to the file of the Ld. CIT(A) with a further direction upon him to consider and finalize the issue afresh upon providing an opportunity of being heard to the assessee and upon considering the evidence on record or any other evidence which the assessee may choose to file at the time of

hearing of matter. With the aforesaid observations the assessee's appeal is allowed for statistical purposes.

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

Order pronounced in the open court on 07.08.2024

Sd/-

(Avdhesh Kumar Mishra)  
ACCOUNTANT MEMBER

Sd/-

(Madhumita Roy )  
JUDICIAL MEMBER

Dated 07.08.2024

PS: Rohit

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI