

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA**

BEFORE SHRI SONJOY SARMA, JM  
AND  
SHRI RAKESH MISHRA, AM

**ITA No. 681/Kol/2024**

(Assessment Year: 2017-18)

Shambhu Ghosh  
H/166/N,  
Raja Ram Mohan Roy Road,  
Siliguri, West Bengal-734001

Vs.

ITO, Ward 1(3)  
Aaykar Bhavan,  
Matigara, Siliguri,  
West Bengal-734010

**(Appellant)**

**(Respondent)**

**PAN No. AFHPG5130M**

**Assessee by** : Shri Sujit Basu &  
Ms. Paromita Guha, ARs  
**Revenue by** : Shri Amitava Sen, Add. CIT DR

**Date of hearing:** 08.08.2024  
**Date of pronouncement :** 13.08.2024

**ORDER**

**PER SONJOY SARMA, JM:**

01. The caption appeal filed by the assessee is directed against the order passed by the Addl./JCIT(A)-10, Mumbai dated 15<sup>th</sup> March, 2024, arising out of the Assessment order dated 22<sup>nd</sup> December, 2019, passed under Section 144 of the Income-tax Act, 1961 (the Act).
02. At the outset, the learned Authorized Representative of the assessee stated that the impugned order passed by learned Addl./JCIT-10, Mumbai, was dismissed, without considering the contention of delay in filing the appeal before him, by simply dismissing the appeal of the assessee without adjudicating on the merit of the case. Therefore, instant appeal may be set aside to the file of



the Addl./JCIT with a direction to re-examine the issue afresh after considering the condonation of delay petition filed by assessee before learned CIT (A) and adjudicate the matter on the merits of the case.

03. On the other hand, the learned Departmental Representative did not object to such prayer made by the assessee before the Bench.
04. We after hearing the submission of the parties and perusing the material available on record, we find that instant impugned order passed by learned addl./JCIT was dismissed without looking into the merits of the case by simply dismissing the appeal of the assessee on the ground that the appeal was filed belatedly. We therefore, feel it necessary to remand back the whole issue to the file of the learned Addl. / JCIT with a direction to consider such prayer made by assessee by condoning the delay in filing the appeal before him and adjudicate the matter on the merits of the case. The assessee also directed to appear before the learned Addl./ JCIT as and when the notice will serve to him. In terms of the above, the appeal of the assessee is allowed for statistical purposes.
05. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 13.08.2024.

Sd/-  
(RAKESH MISHRA)  
(ACCOUNTANT MEMBER)

Sd/-  
(SONJOY SARMA)  
(JUDICIAL MEMBER)



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Kolkata
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata