

2. Heard and perused the record. The ld. AR has pointed out that there is only a technical mistake on the part of the assessee as instead of filing the return in ITR-5, the assessee had filed the return of income in ITR-7 and the judgement of the Calcutta Bench of the Tribunal in the case of *Young Mens Welfare Society vs. ADIT (CPC), ITA Nos.613 & 614/Kol/2022, order dated 01.05.2023* is relied to submit that this is merely a procedural lapse.

3. However, we find that the ld.CIT(A) has not entered on the merits of the issue at all and, on the basis of the fact that the assessee was served notices on several occasions and the assessee has not responded, dismissed the appeal.

4. Thus, we are inclined to allow the appeal of the assessee for statistical purposes by restoring the issue on merits to the files of the NFAC for deciding the appeal of the assessee on merits as well as question of law and after giving due opportunity of hearing and considering the relevant citation and law as relied.

5. In the result, the appeal is allowed for statistical purposes only.

Order pronounced in the open court on 27.08.2024.

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 27th August, 2024.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi