

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES,"SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 451/JP/2024
निर्धारण वर्ष/Assessment Year : 2011-12

M/s. Yashi Consulting Services (P) Ltd. 149, Kailashpuri, Tonk Road Jaipur	बनाम Vs.	The ACIT Circle-6 Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAACY 3614 P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Sakshi Khandelwal Ghiya Adv
Paridhi Jain, Adv.

राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 26/06/2024
उदघोषणा की तारीख / Date of Pronouncement: 07 /08/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 11-02-2024, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2011-12 raising ground of appeal as mentioned at Form No. 36.

2.1 At the very outset after perusal of the case file, the Bench noticed that the appeal of the assessee has been dismissed by the Id. CIT(A) as the same was filed beyond the period prescribed under the law.

2.2 The Id. AR appearing on behalf before the Bench submitted that the assessee was not aware about the delay in filing the appeal before the Id CIT(A) and, therefore, he could not file any formal application. Moreover, the Id. CIT(A) by rejecting the appeal of the assessee has not provided any opportunity to the assessee regarding the delay in filing the appeal.

2.3 On the contrary, the Id. DR relied upon the orders of the lower authorities.

2.4 After hearing both the parties at length and perusing the order of the Id. CIT(A), the Bench found that the Id. CIT(A) nowhere pointed out or given opportunity to the assessee before rejecting the appeal on the ground of delay in filing the appeal. Since the assessee was not aware about his appeal being filed in delayed manner, therefore, he has not furnished any reason in Form No. 35. The Bench holds its view that plea of the assessee appears to be reasonable. Be that as it may, in my view the lis between the parties have to be decided on merit as the assessee was not aware about filing of the delayed appeal after expiry of statutory period. Therefore, the assessee could not file an application for seeking condonation of delay. In view of the facts and circumstances of the case, the Bench feels that matter is restored to the file of the Id. CIT(A) to decide it afresh

on merit by providing one more opportunity of hearing, however, the assessee will not seek any adjournment on frivolous ground and remain cooperative during the course of proceedings. Thus the appeal of the assessee is allowed for statistical purposes.

2.5 Before parting, the Bench makes it clear that its decision to restore the matter back to the file of the ld. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by ld. CIT(A) independently in accordance with law.

3.0 In the result, the appeal of the assessee is allowed for statistical purposes with no orders as to costs.

Order pronounced in the open court on 07/08/2024.

Sd/-
(संदीप गोसाईं)
(Sandeep Gosain)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 07 /08/2024

***Mishra**

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- M/s. Yashi Consulting Services (P) Ltd. Jaipur
2. प्रत्यर्थी / The Respondent- The ACIT, Circle -6, Jaipur
3. आयकर आयुक्त / The ld CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File (ITA No. 451/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar