

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, KOLKATA

Before
Dr. Manish Borad, Accountant Member
&
Shri Sonjoy Sarma, Judicial Member

I.T.A. No.1041/KOL/2023
Assessment Year: 2010-11

Art O Gem Jewellers Ltd. **Appellant**
604, Bhagalaxmi Building,
18-C, Kennedy Bridge, Opera House,
Mumbai-400004.
(PAN: AACCA0957D)

Vs.

DCIT, Circle-8(1), Kolkata. **Respondent**

Appearances by:

Shri Anil Kochar, Advocate appeared for Appellant.
Shri Pradip Biswas, Addl. CIT appeared for Respondent.

Date of concluding the hearing : 26.08.2024
Date of pronouncing the order : 12.09.2024

ORDER

Per Dr. Manish Borad, Accountant Member

This appeal filed by the assessee pertaining to the Assessment Year (in short “AY”) 2010-11 is directed against the order passed u/s 250 of the Income Tax Act, 1961 in short the “Act”) by Ld. Commissioner of Income-tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi [in short Ld. “CIT(A)”] dated 13.07.2023 arising out of the assessment order u/s 147 r.w.s. 143(3) of the Act by DCIT, Circle-8(1), Kolkata dated 22.12.2017.

2. Registry has informed that the appeal of the assessee is time barred by 17 days. Condonation of delay application dated 26.09.2023 is placed in file. The main reason for non-appearance is that the Director Nirbhay Singh who was looking after the taxation matters at the material time was hospitalized due to ill health and even though after few days he was discharged but was immediately thereafter admitted to the Nursing Home and where he breathed his last on 21st August, 2023. Hence, this delay in filing the appeal before the Tribunal. We find the reason given by the assessee is reasonable and Ld. DR also did not oppose the condonation of delay, we, therefore, in the interest of justice condone the delay of 17 days and admit the appeal for adjudication.

3. At the time of hearing before us, Ld. Counsel for the assessee submitted that the assessee was not granted fair opportunity of hearing by the Ld. CIT(A) before framing an *ex parte* order and prayed to set aside the order of the Ld. CIT(A) and restore the matter to his file for afresh adjudication.

4. We have heard the rival submissions and perused the material available on record. We notice that the Ld. CIT(A) has afforded only four opportunities to the assessee i.e. on 21.01.2021, 09.05.2023, 25.05.2023 and 20.06.2023 through e-mail ID but the assessee did not respond to the same. Ld. CIT(A) dismissed the appeal on account of non appearance without going into the merits of the case. Considering the prayer of the assessee and considering the circumstances faced by the assessee which prevented him to appear before the Ld. CIT(A) and in the interest of justice and fair play, we set aside the impugned order of the Ld. CIT(A) and

restore the matter to his file for fresh adjudication for which reasonable opportunity of being heard be provided to the assessee. The assessee is also given liberty to file necessary documents in support of his contention before the Ld. CIT(A), who after considering the same will pass a speaking order. Assessee is also directed not to take any adjournment without the reasonable cause.

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

Order is pronounced in the open court on 12th September, 2024.

Sd/-

Sd/-

(Sonjoy Sarma)
Judicial Member

[Dr. Manish Borad]
Accountant Member

Dated: 12th September ,2024

J.D. Sr. PS.

Copy of the order forwarded to:

1. Appellant – **Art O gem Jewellers Ltd.**
2. Respondent – DCIT, Circle-8(1), Kolkata.
3. CIT(A), NFAC, Delhi
4. CIT-
5. Departmental Representative
6. Guard File.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata