

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एसएमसी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं . 2793/दिल्ली/2024 (नि . व. 2012-13)
ITA No.2793/DEL/2024 (A.Y.2012-13)

Manoj Yadav,
S/o Balbir Singh, H.No. 74/4, Shakti Nagar,
District Rewari, Harayana 125052
PAN: AFZPY-4821-K

..... अपीलार्थी / Appellant

बनाम Vs.

Income Tax Officer,
Ward-2, Rewari,
Haryana

..... प्रतिवादी / Respondent

अपीलार्थी द्वारा / Appellant by : Shri Parth Singhal, Advocate
प्रतिवादीद्वारा / Respondent by : Ms. Shivani Bansal, Sr. DR
सुनवाई की तिथि / Date of hearing : 11/09/2024
घोषणा की तिथि / Date of pronouncement : 11/09/2024

आदेश / ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 31.01.2024, for Assessment Year 2012-13.

2. This appeal is time barred by 61 days. The assessee has filed an application seeking condonation of delay in filing of appeal. The said application is supported by an affidavit. After perusal of the said application, I am satisfied that the delay in

filing of appeal was not intentional or deliberate but was for the bonafide reason stated in the application. The delay in filing of appeal is condoned, and appeal is admitted for hearing on merits.

3. Shri Parth Singhal, appearing on behalf of the assessee, submits that the assessee was absolutely unaware of proceedings before the CIT(A) and the AO. The notice of hearing was communicated to the tax consultant of the assessee, he did not appear to represent the assessee either before the AO or the CIT(A), nor did he inform the assessee about any proceedings under provisions of the Income Tax Act, 1961(hereinafter referred as to 'the Act'). The Id. Counsel prayed that if an opportunity is granted to the assessee to represent his case before the Assessing Officer (AO), the assessee would furnish all the relevant details. The assessee has *prima facie* good case on merits. The primary addition made by the AO is in respect of cash deposits amounting to Rs. 45,00,000/- in the bank account. The assessee would explain the source of cash deposits in the impugned assessment year before the AO, if an opportunity is allowed.

4. Per contra, Ms. Shivani Bansal representing, the Department vehemently, defended the impugned order. She submitted that the assessee is recalcitrant and does not respect the notices issued by the Tax Authorities. The assessee neither co-operated during assessment proceedings, nor the assessee appeared before the CIT(A). She prayed for dismissing appeal of the assessee.

5. Both sides heard. It is an undisputed fact that the assessee has neither appeared before the CIT(A) nor before the AO. The AO was constrained to complete assessment u/s. 144 r.w.s 147 of the Act. The reason given by the

assessee for non appearance before the authorities below is that the Chartered Accountant to whom the assessee had assigned the case did not inform the assessee about the proceedings, nor he appeared before the AO/CIT(A) to represent assessee. Taking into consideration entire facts and keeping in view the principles of natural justice, this appeal is restored back to the file of AO for *denovo* assessment after affording reasonable opportunity of making submissions to the assessee, in accordance with law.

6. The assessee is directed to respond to the notice issued and served by the AO, without fail. The assessee is further directed to provide his email id on which the AO shall issue notice.

7. In the result, appeal of the assessee allowed for statistical purpose.

Order pronounced in the open court on Wednesday the 11th day of September, 2024.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 11/09/2024

NV/-

प्रतिलिपि अग्रेषित Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI