

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.992/JP/2024  
निर्धारण वर्ष / Assessment Year : 2013-14

M/s.Shri Gargi Buildcon Pvt. Ltd. C-9, Barwara House Colony, Ajmer Road Jaipur	बनाम Vs.	The ITO Ward 2 (2) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAMCS 8430 P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Ashok Kumar Gupta, Adv  
राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, JCIT-DR

सुनवाई की तारीख / Date of Hearing : 05/09/2024  
उदघोषणा की तारीख / Date of Pronouncement: 23/09/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 07-03-2024, National Faceless Appeal Centre, Delhi [ hereinafter referred to as (NFAC) ] for the assessment year 2013-14 wherein the solitary issue raised by the assessee is that the ld. CIT(A) has erred in confirming the penalty imposed by the AO u/s 271(1)(c) of the Act.

2.1 At the outset of the hearing of the appeal, the Bench noted that there is delay of 77 days in filing the appeal for which the Director company submitted an

application dated 16-08-2024 for condonation condonation praying therein that the impugned order of the ld. CIT(A) was sent on the e-mail id: [accounts@shreenatharcade.com](mailto:accounts@shreenatharcade.com) and the responsibility to check and manage the same was assigned to Shri Neeraj Sharma, one of the employees of group, but he could not check the same timely as well as on income tax portal too. Thus the same could not come to the knowledge of the company. As and when it had come to the knowledge of this employee i.e. Shri Neeraj Sharma who informed the management of the company about this impugned order of the ld CIT(A). Thereafter the management approached the Counsel to prepare the appeal and submitted it on 22-07-2024 and thus the appeal got delayed. He submitted that there is no negligence on the part of the assessee or the counsel and submitted that the delay may be condoned for which he filed an affidavit.

2.2 On the other hand, the ld. DR objected to such delay but submitted that the Court may decide the issue as deem and fit proper in the case.

2.3 The Bench heard both the parties and perused the materials available on record including the affidavit of the assessee and found that there is a merit in the application of the assessee for condonaton of delay. Thus the delay is condoned in view of the decision of Hon'ble Supreme Court in the case of Collector, Land & Acquisition Vs Mst. Katiji & Others (1987), 167 ITR 471.

2.4 Further during the course of hearing of the appeal, it is noticed that the present appeal pertains to challenging the order of penalty u/s 271(1)© of the Act.

2.5 In this regard, it has been apprised at Bar by the Id. AR of the assessee that the appeal of the quantum addition is pending before the Id. CIT(A) for adjudication and the same fact has not been denied Id. DR, present in the Court.

2.6 After hearing both the parties and perusing the materials available on record, the Bench feels it appropriate to restore the matter back to the file of the Id.CIT(A) who will decide appeal of the assessee based on the quantum appeal. Thus the appeal of the assessee is allowed for statistical purposes

3.0 In the result, the Appeal of the appellant is allowed for statistical purposes with no orders as to cost.

Order pronounced in the open court on 23/09/2024.

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

जयपुर / Jaipur

दिनांक / Dated:- 23 /09/2024

\*Mishra

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

1. The Appellant- M/s. Shri Gargi Buildcon Pvt. Ltd., Jaipur
2. प्रत्यर्था / The Respondent- The ITO, Ward 2(2), Jaipur
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File (ITA No. 992/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar