

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH 'A', LUCKNOW**

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
AND SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

I.T.A. No.332/Lkw/2024  
Assessment Year: 2018-19

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| Inst of Tool Room Trg UP<br>A-1, ITTUP, Kanpur Road,<br>Amausi Industrial Area,<br>Lucknow.<br>PAN:AABCI3555J<br>(Appellant) | Vs. | Income Tax Officer,<br>National Faceless Assessment<br>Centre, Delhi.<br><br>(Respondent) |
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| Appellant by  | Shri Ashish Agrawal, Advocate                    |
| Respondent by | Shri Sanjeev Krishna Sharma,<br>Addl. CIT (D.R.) |

**ORDER**

**PER ANADEE NATH MISSHRA:A.M.**

(A) This appeal, vide I.T.A. No.332/Lkw/2024, has been filed by the assessee for assessment year 2018-19 against impugned appellate order dated 13/02/2024 vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1060859096(1) of learned Commissioner of Income Tax (Appeals) [learned "CIT(A)" for short]. The grounds of appeal are as under:

- "1. *That the impugned appellate order passed by the Learned Commissioner (Appeals) is against the principals of natural*

*justice as reasonable opportunity of being heard was not provided to the appellant.*

2. *That the Ld Commissioner (Appeals) did wrong in not considering the request for adjournment dated 18.01.2024 on the ground that the counsel of the appellant was hospitalised and in critical condition with prayer for extension of time and for such reason further response or adjournment could not be submitted.*
3. *That the Ld Commissioner (Appeals) has passed the impugned appellate order without discussing or adjudicating upon the grounds of appeal and dismissed the appeal on grounds of non persecution and the same is against various judgments passed by Higher Courts which hold that the Commissioner (Appeals) is obligated to adjudicate on grounds of appeal even while passing an ex-parte order."*

(B) This appeal has been filed beyond time prescribed u/s 253(3) of the Income Tax Act, 1961 ("IT Act" for short). As per noting of registry, the appeal is time barred by 32 days. An application seeking condonation of delay was filed by the assessee on the ground that legal counsel was unwell and on complete bed rest as per doctor's advice. The learned senior Departmental Representative for Revenue did not express any objection to condonation of delay sought by the assessee. Accordingly, being satisfied with the reason furnished for delay in filing of appeal, and as representatives of both sides are on agreement on this, we condone the delay in filing of this appeal and we admit this appeal for decision on merit.

(B.1) In this case the assessment order dated 12/04/2021 was passed by the Assessing Officer u/s 143(3) read with sections 143(3A) and 143(3B) of the IT Act vide DIN ITBA/AST/S/143(3)/2021-22/1032360748 whereby the assessee's total income was determined at Rs.1,67,37,000/- as against returned income of nil. The addition made by the Assessing Officer was on

account of voluntary and anonymous donations received by the assessee. The assessee filed appeal in the office of learned CIT(A) against the aforesaid impugned assessment order dated 12/04/2021. Vide impugned appellate order dated 13/02/2024, DIN & Order No.ITBA/NFAC/S/250/2023-24/1060859096(1), the learned CIT(A) dismissed the assessee's appeal in limine holding that assessee was not keen on pursuing the appeal. The learned CIT(A) passed an ex-parte order qua the appellant assessee, dismissing the assessee's appeal in limine without going into the merits of the additions made by the Assessing Officer. Aggrieved, the assessee has filed the present appeal in Income Tax Appellate Tribunal.

(C) At the time of hearing before us, the learned Counsel for the assessee submitted that there was no representation from the assessee's side during assessment proceedings or during appellate proceedings in the office of the learned CIT(A) because (Late) Shri S. C. Agrawal, Advocate, who was to represent the assessee, was unwell. The aforesaid (Late) Shri S. C. Agrawal, happened to be the father of Shri Ashish Agrawal, the learned Counsel for the assessee present before us today. He submitted that due to illness, Shri S. C. Agrawal has deceased. He requested for fresh opportunity before the Assessing Officer. For this purpose he requested that the issues in dispute should be set aside to the file of the Assessing Officer for fresh order in accordance with law after providing reasonable opportunity to the assessee. The learned Sr. Departmental Representative expressed no objection to this request made by learned Counsel for the assessee.

(D) In view of the foregoing, and as representatives of both sides are in agreement on this, we set aside the impugned appellate order dated

13/02/2024 of the learned CIT(A) and we restore the issues in dispute to the file of the Assessing Officer with the direction to pass fresh order in accordance with law after providing reasonable opportunity of being heard to the assessee.

(E) In the result, the appeal is partly allowed for statistical purposes.

(Order pronounced in the open court on 26/09/2024)

**Sd/.**  
**(SUDHANSHU SRIVASTAVA)**  
**Judicial Member**

**Sd/.**  
**(ANADEE NATH MISSHRA)**  
**Accountant Member**

Dated:26/09/2024

\*Singh

**Copy of the order forwarded to :**

1. The Appellant
2. The Respondent
3. Concerned CIT
  
4. D.R., I.T.A.T.,
5. CIT(A)

Assistant Registrar