

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT
&
DR. MANISH BORAD, ACCOUNTANT MEMBER

I.T.A. No.1517/KOL/2024
Assessment Year: 2021-22

Anandpushp Education Foundation Flat 4A, 23, Circus Avenue, Kolkata-700017 [PAN : AASCA6559R]	Vs	Asst. Director of Income Tax, CPC Income Tax Officer, Ward 32(1), 10, Middleton Row, Kolkata-700071 West Bengal
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Avnav Mishra, AR
Revenue by :	Shri Bonnine Debbarma, addl. CIT DR

सुनवाई की तारीख/Date of Hearing : 25.09.2024
घोषणा की तारीख /Date of Pronouncement : 03.10.2024

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER:

The captioned appeals filed by the assessee, pertaining to assessment years 2021-22 is directed against the order passed by the Learned Addl/JCIT (Appeals), Bhubaneswar (hereinafter referred to as the 'ld. CIT(A)') dated 12th June, 2024 passed u/s 250 of the Income Tax Act, 1961 ('Act').

2. At the outset, the ld. Counsel for the assessee requested for restoring the issue back to the file of the ld. CIT (A) and decide the appeal on merits because the ld. CIT (A) had dismissed the appeal of the assessee solely on the ground of delay in filing the appeal.

3. On the other hand, the ld. DR supported the order of the lower authorities.



4. We have heard the rival contentions and perused the materials available on record. We observe that the assessee filed its return for A.Y. 2021-22 and on processing certain adjustments were made by the ld. CPO, assessing income at ₹2,26,24,648/- as against the nil income declared by the assessee. The said adjustments were made by the CPC on account of delay in furnishing of audited report on form no.10B. Aggrieved assessee preferred the appeal before the ld. CIT (A), who pointed out that there was a delay of 110 days in filing of the appeal. The ld. CIT (A) did not condone the delay and dismissed the appeal solely on the ground of delay in filing of the appeal.

5. We observe that the assessee filed the reason for condonation of delay in form no.35 stating that on account of ongoing pandemic and irregular office working, the person who was looking after the tax matter left without any notice and the same caused a complete gap. We find substance in the reasons given for condonation of delay because normally for taxation work the assessee is dependent upon its consultant or upon the person who looks after the tax matter. In case of any careless approach by such person, the deadline for filing the returns / filing of appeal is lapsed. This being a bonafide reason, we condone the delay of 110 days in filing of the appeal before the ld. CIT (A) and direct the ld. CIT (A) to adjudicate the issue on merits which has been raised for denial of exemption u/s 11 & 12 of the Income Tax Act on account of delay in furnishing of audit report on form 10B.

6. From the statements of facts filed in form no 35B, we observe that the assessee has furnished audit report on Form 10B on 7th March, 2023. We also like to take note of CBDT Circular No. 19/2022 dated 30th September, 2022, wherein directions have



been given to accept application for delay in filing of audit report in form no.10B. We therefore, direct the ld. CIT (A) to examine the facts of the instant case in accordance with CBDT Circular (*supra*) and provide reasonable opportunity to the assessee to furnish the reply and file relevant details and evidences if needed and assessee should also not seek any adjournments unless otherwise required for reasonable cause. Grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the Court on 3rd October, 2024 at Kolkata.

Sd/-

**(RAJPAL YADAV)
VICE PRESIDENT**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 03.10.2024

***SS, Sr.Ps**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

**Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata**