

आयकर अपीलीय अधिकरण
कोलकाता 'बी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH, KOLKATA**

डॉ. मनीष बोर्ड, लेखा सदस्य
एवं
श्री संजय शर्मा, न्यायिक सदस्य
के समक्ष
Before

**DR. MANISH BORAD, ACCOUNTANT MEMBER
&
SONJOY SARMA, JUDICIAL MEMBER**

**I.T.A. No.: 1592/KOL/2024
Assessment Year: 2013-14**

***Subhlabh Commodeal Pvt. Ltd.....Appellant
[PAN: AALCS 2139 Q]***

Vs.

ITO, Ward-2(1), Kolkata.....Respondent

Appearances:

Assessee represented by: Parin Shah, AR.

Department represented by: P.P. Barman, Addl. CIT, Sr. DR.

Date of concluding the hearing : October 3rd, 2024

Date of pronouncing the order : October 4th, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2013-14 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Id. Commissioner of Income-tax (Appeals)-NFAC, Delhi [in short Id. 'CIT(A)'] dated 29.05.2024 arising out of the assessment order framed u/s 147/144 of the Act dated 30.09.2021.

2. This appeal has been filed by the assessee Subhlabh Commodeal Pvt. Ltd. challenging the order passed by Id. CIT(A) for the AY 2013-14, wherein the appeal was dismissed due to significant delay in filing the appeal without evaluating the merits of the case. The brief facts of the case are that assessee's

appeal before the ld. CIT(A) was dismissed solely on the ground of substantial delay in filing the appeal. Ld. CIT(A) did not examine the merits of the case and dismissed the appeal on the procedural grounds. Aggrieved by the order of ld. CIT(A), the assessee has filed the present appeal before this Tribunal, arguing that ld. CIT(A) should have condoned the delay in filing the appeal and decided the case on its merits. The assessee submitted that there were genuine reasons for the delay and this should have been considered by the ld. CIT(A) in the interest of justice.

2.1. Ld. Counsel for the assessee argued that ld. CIT(A) erred in dismissing the appeal without taking into account the facts of the case. The delay in filing the appeal was due to genuine reasons, which were explained in detail before the ld. CIT(A). The assessee prayed that the matter be remanded to the file of ld. CIT(A) with the directions to condone the delay and examine the issues on merit. Ld. Counsel for the assessee also stated that it is not in the interest of justice to dismiss the appeal on the ground of delay without addressing the underlined merits of the case.

2.2. The ld. D/R opposed the assessee's arguments and submitted that there was a substantial delay in filing the appeal before ld. CIT(A) and the ld. CIT(A) rightly dismissed the appeal. According to ld. D/R, ld. CIT(A) was justified in not condoning the delay and there was no need to interfere with the order passed by the ld. CIT(A).

3. We, after hearing both the parties and perusing the material available on record, we find that the ld. CIT(A) dismissed the appeal solely on the ground of delay without examining the facts and merits of the case.

3.1. In the interest of justice, we are of the view that it was not fair on the part of the ld. CIT(A) to dismiss the appeal without considering the merits of the case, especially when the assessee had provided reasons for delay. We find that the delay should have been condoned and appeal should have been examined on its merits. Therefore, in the interest of justice and fair play, we deem it appropriate to set aside the order of ld. CIT(A) and remand the matter

back to the file of ld. CIT(A) with a direction to examine the issue on merits after condoning the delay in filing the appeal.

3.2. In light of the above, we allow the appeal of the assessee for statistical purposes and direct the ld. CIT(A) to condone the delay and decide the matter on its merits. The assessee is also directed to cooperate with the proceedings before the ld. CIT(A) and appear as and when required by the ld. CIT(A).

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 4th October, 2024.

Sd/-

[Manish Borad]

Accountant Member

Dated: 04.10.2024

Bidhan (P.S.)

Copy of the order forwarded to:

1. **Subhlabh Commodeal Pvt. Ltd., 5, Weston Street, Kolkata, West Bengal, 700013.**
2. **ITO, Ward-2(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

//True copy //

Sd/-

[Sonjoy Sarma]

Judicial Member

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata