

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

**Shri Sonjoy Sarma, Judicial Member
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No.1537/Kol/2024
Assessment Year: 2013-14**

Eastern Auto Investo Pvt. Ltd.,

67, Bentinck Street, 1st Floor,
B.B.D. Bag, Kolkata - 700069
[PAN: AAACE6147K]

.....**Appellant**

vs.

ACIT, Circle-3(1), Kolkata,

P-7, Chowringhee Square,
Aayakar Bhawan, Kolkata – 700069

..... **Respondent**

Appearances by:

Assessee represented by : Virat Singh, AR
Department represented by : Susanta Saha, Sr. DR

Date of concluding the hearing : September 26, 2024
Date of pronouncing the order : September 30, 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 the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (in short "the Ld. CIT(A)"), dated 20.06.2024 arising out of Assessment Order dated 23.09.2021, passed under Section 147 read with sections 144 & 144B of the Act.

2. The Assessee has raised the following grounds of appeal:

"1. For that the orders passed by the lower authorities are arbitrary, erroneous, without proper reasons, invalid and bad-in-law, to the extent to which they are prejudicial to the interests of the appellant.

2. For that the Order of the Ld. CIT (A) is wrong and bad-in-law in as much as the same has been passed without valid jurisdiction.

3. For that on facts and in the circumstances of the case and in law, the Ld. CIT (A) erred in refusing to condone the delay u/s 249(3) of the Act in filing of the appeal by the appellant on alleged grounds.

4. For that the Ld. CIT (A) ought to have condoned the delay in submission of the appeal on the grounds as enumerated in the Appeal Memo submitted.

5. For that the Ld. CIT (A) erred in passing a perverse order in as much as the delay in submission of the appeal has not been condoned."

3. At the time of hearing, the Ld. Authorised Representative submitted before the Bench that the Ld. CIT(A) has dismissed the appeal ex parte due to delay of 570 days for filing the appeal memo without considering the merit of the case. The Ld. AR explained that the delay was unintentional and prayed that condone such delay by allowing the matter to be remand back to the Ld. CIT(A) for the purpose of adjudication.

4. On the other hand, the Ld. DR opposed the contention of the delay made before the Ld. CIT(A). The assessee has failed to appear to represent its case as such the Ld. CIT(A) was justified in passing the ex parte order, it is on the material available on record.

5. We have heard both the parties and perusing the material available on record. It is evident that there was substantial delay of 570 days in filing the appeal memo before the Ld. CIT(A). However, in the interest of justice and fair play and considering the submission made by the Ld. AR, we find it necessary to condone such delay in filing the appeal before the Ld. CIT(A). We are of the opinion that the delay in filing the appeal should not be precluded, the assessee from having their case decided on merits,

particularly when interest of justice involved. In view of the above, we hereby condone the delay of 570 days in filing the appeal by the assessee before the Ld. CIT(A) and set aside the ex-parte order passed by the Ld. CIT(A). We direct the Ld. CIT(A) to re-examine the matter on its merit after providing reasonable opportunity of being heard to the assessee. The assessee is also directed to complete with the notice issued by the Ld. CIT(A) and appear for the hearing without fail, if assessee failing to appear before the Ld. CIT(A) that event, the Ld. CIT(A) shall have full authority to decide the case based on the material available on record. In conclusion, appeal of the assessee is allowed for statistical purposes and matter is remanded back to the file of Ld. CIT(A) for fresh adjudication.

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

Kolkata, the 30th September, 2024.

Sd/-
[Rakesh Mishra]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated:30.09.2024.

AK, PS

Copy of the order forwarded to:

- 1 Eastern Auto Investo Pvt. Ltd
2. ACIT, Circle-3(1), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches

