

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

श्री संजय गर्ग, न्यायिक सदस्य
एवं

श्री संजय अवस्थी, लेखा सदस्य
के समक्ष

Before

SRI SANJAY GARG, JUDICIAL MEMBER
&
SRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No.: 1459/KOL/2024
Assessment Year: 2012-13

M/s. Mortex Light India Pvt. Ltd. (Successor to Singhvahini Vincom Pvt. Ltd.).....Appellant
[PAN: AADCM 2726 K]

Vs.

ITO, Ward-5(1), Kolkata.....Respondent

Appearances:

Assessee represented by: *Miraj D. Shah, AR.*

Department represented by: *A. Kundu, CIT DR.*

Date of concluding the hearing : September 26th, 2024

Date of pronouncing the order : October 16th, 2024

ORDER

Per Sanjay Awasthi, Accountant Member:

In this case there is a delay of 543 days in filing of this appeal. The applicant has filed a request for condonation of delay, supported by an affidavit, as under:

"I Adv. Ayush Kumar Dadhich son of Shiv Dayal Dadhich office at 8, Lyons Range, 1st Floor, Kolkata - 700001 do hereby declare and affirm as follows:

1. That I am an advocate by profession and having Bar Council Registration No.F/10/2019

2. That I was engaged by M/s Mortex Light India Pvt Ltd (as successor of Singhvahini Vlncom Pvt Ltd) to file the appeal for AY 2012-13 Before the Income Tax Appellate Tribunal and I had drafted the appeal and handed it over to my staff Mr. Gopal Kedia to do the necessary steps in filing the appeal.

3. That the said Staff was not keeping good health and become irregular in office and ultimately, he passed away on 21/10/2023.

4. On his demise, I started verification of the work delegated to him and found that the above appeal was not filed. Once I became aware of the same. Immediately called the client and took steps to file the appeal.

5. That the delay in filing the appeal was due to the ill health of my staff and there was no failure on the part of the assessee in this delay.

6. That whatsoever is declared herein above is true and correct to the best of my knowledge and belief.”

1.1. Considering the reasons laid out in the affidavit extracted above, this appeal is admitted for adjudication.

2. Right at the outset, the ld. AR took us through certain portions in the Assessing Officer (hereinafter referred to as ld. 'AO')'s order and the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as ld. 'CIT(A)']'s order (especially para 5.1 of the impugned order) to plead that the appellant did not get a reasonable opportunity to plead his case before the authorities below as for a variety of reasons the notices issued for hearing could not be responded to. The ld. AR was insistent in his prayer for a remanding back of this case to the file of ld. AO, to enable him to present the documents for consideration.

2.1. The ld. DR had no objection in case the matter was to be remanded back for fresh adjudication.

3. Considering the pleadings before us and after a perusal of facts, we deem it fit to remand this matter to the file of the ld. AO for fresh adjudication. Needless to say, the ld. AO would give a proper opportunity of being heard and also that the appellant would do well to avail of such opportunities.

4. In the result, this appeal is allowed for statistical purposes.

Order pronounced in the open Court on 16th October, 2024.

Sd/-
[Sanjay Garg]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 16.10.2024

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. M/s. Mortex Light India Pvt. Ltd. (Successor to Singhvahini Vincom Pvt. Ltd.), 77, N.S. Road, 5th Floor, Room No.5, Kolkata, West Bengal, 700001.**
- 2. ITO, Ward-5(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata