

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'J(SMC)' BENCH
MUMBAI**

**BEFORE: SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT
MEMBER**

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 4015/MUM/2024
(Assessment Year : 2015-16)**

Shri Ram Steels A-8, Sarvodaya Nagar, Panjrapole Lane, Mumbai-400004.	Vs.	ITO Ward 19(3)(1), Piramal Chambers, Lalbaug, Mumbai-400012.
PAN/GIR No. AARFS5226K		
(Appellant)	..	(Respondent)

Assessee by	Shri. Kirit Sanghvi
Revenue by	Shri. Asif Karmali (SR DR)
Date of Hearing	06/11/2024
Date of Pronouncement	08/11/2024

आदेश / ORDER

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 13.06.2024 passed in Appeal no. ADDL/JCIT (A)-4 DELHI/10001/2014-15 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-Tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2015-16, wherein learned CIT(A) has

dismissed assessee's appeal upon rejection of assessee's prayer for the condonation of delay.

2. The brief facts state that the appellant filed its return of income for A.Y. 2015-16 on 28.09.2015. The intimation order u/s. 143(1) was passed on 09.04.2016, against which an appeal was preferred on 04.09.2023, before learned CIT(A), which was dismissed for non-prosecution and delay.
3. Appellant has preferred this appeal on the ground that learned CIT(A) has erred in dismissing the appeal, stating that there is a delay of seven years and five months, ignoring the fact that the impugned intimation order was communicated to the assessee only on 5.08.2023.
4. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.
5. We have perused the records and heard learned representatives for both the parties.
6. Learned AR has submitted that the appeal was filed on 04.09.2023, immediately after receiving the impugned intimation on 5.08.2023. The time period should have been computed from the date of receipt of the intimation order. Prayed to set aside the impugned order passed by learned CIT(A).
7. Learned DR has supported the impugned order.
8. On the perusal of the records, we find that Mr. Krunal Atul Parekh for the assessee has filed an affidavit, stating that the assessee received the e-mail only on 05.08.2023 from the assessing officer, demanding payment of tax for A.Y. 2015-16.

Assessee contacted the assessing officer and obtained the intimation and filed the appeal within 30 days thereafter. The contents of the assessee's affidavit are unrebutted, hence we find no reason to disbelieve the assessee's statement on affidavit in absence of any contrary evidence. In such circumstances, we condone the delay in filing appeal before learned CIT(A) and remit the matter back to the file of learned CIT(A) for denovo adjudication on merit. We direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the learned CIT(A) for the expeditious and effective disposal. Assessee should refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any observation on the merits of the case. The appeal is thus liable to be allowed.

9. In the result, the appeal is allowed. Impugned order dated 13.06.2024 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 08.11.2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 08/11/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT

4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai