

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD
BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER

ITA No.1651/Ahd/2024
Assessment Year : 2014-15

Shreenath Corporation C/o. MS Chhajed & Co., CA "Kamal Shanti", Nr. Sardar Patel Statute Ahmedabad 380 014. PAN : ACFFS 4232 D	Vs.	The ITO, Ward-2(1)(2) Ahmedabad.
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Assessee by	:	Shri M.S. Chhajed, AR
Revenue by	:	Shri B.P. Srivastava, Sr.DR

सुनवाई की तारीख /Date of Hearing : 05/11/2024
घोषणा की तारीख /Date of Pronouncement: 08/11/2024

आदेश/ORDER

PER ANNA PURNA GUPTA, ACCOUNTANT MEMBER

This appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 6.8.2024 passed under section 250 of the Income Tax Act, 1961 ("the Act" for short) ,dismissing assessee's appeal against the order of the Assessing Officer (AO) levying penalty under section 271(1)(c) of the Act ,as non-maintainable.

3. The ld.CIT(A), we find has dismissed the assessee's appeal as non-maintainable by not condoning the delay in filing of the appeal before it. The delay in filing the appeal before the ld.CIT(A) is noted to be to the tune of one year and eight months. The ld.CIT(A) has found no sufficient cause adduced by the assessee for the delay, and

accordingly has dismissed the assessee's appeal as non maintainable being filed beyond the period prescribed by law .

4. We have noted from the order of the ld.CIT(A) that the assessee has not been given any opportunity of hearing by the ld.CIT(A) while not condoning the delay. The Ld.CIT(A) has considered merely the submissions filed by the assessee ,along with the appeal, giving reasons for the delay and passed order refusing to condone the delay. Besides, the ld.counsel for the assessee has drawn our attention to the fact that the appeal of the assessee in quantum proceedings is still pending before the ld.CIT(A) and the penalty appeal has been decided in advance.

5. Noting the above, we are of the view that the appeal of the assessee needs to be considered afresh by the ld.CIT(A) more particularly, along with the appeal in quantum proceedings before it; that it would be appropriate to decide the penalty appeal only after the quantum proceeding is decided and to consider condonation of delay only after giving proper opportunity of hearing to the assessee.

We accordingly restore the issue back to the file of the ld.CIT(A) to be decided in accordance with law, as per our above directions.

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

Order pronounced in the Court on 8th November, 2024 at Ahmedabad.

Sd/-

**(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

Sd/-

**(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Ahmedabad, dated 08/11/2024

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

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

आदेशानुसार / BY ORDER,

True Copy

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad**