

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

श्री राजेश कुमार, लेखा सदस्य  
एवं  
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य  
के समक्ष

Before

SRI RAJESH KUMAR, ACCOUNTANT MEMBER  
&  
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER

I.T.A. No.: 795/KOL/2024  
Assessment Year: 2012-13

*Malay Bose.....Appellant*  
*[PAN: AEHPB 2927 G]*

*Vs.*

*ACIT, Cir.-29, Kolkata.....Respondent*

**Appearances:**

**Assessee represented by:** Siddharth Agarwal, Adv.

**Department represented by:** Monalisha Pal Mukherjee, JCIT.

Date of concluding the hearing : September 25<sup>th</sup>, 2024

Date of pronouncing the order : November 22<sup>nd</sup>, 2024

**ORDER**

**Per Pradip Kumar Choubey, Judicial Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2012-13 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Id. 'CIT(A)'] dated 16.02.2024 arising out of the assessment order framed u/s 144/143(3) r.w.s. 147 of the Act dated 18.12.2019.

1.1. The brief facts of the case of the appellant are that the assessee filed its return of income for the AY 2012-13 declaring total income of Rs. 47,45,402/-. Case of the assessee was selected for scrutiny and an order was passed u/s 143(3) of the Act on 14.10.2015 and assessed at Rs. 47,45,402/-. Case was reopened after duly recording the reasons to believe and obtaining approval from the higher authorities, notice u/s 148 of the Act was issued but assessee did not file any return of income in response to the said notice. In absence of any compliance from the assessee, an amount of Rs. 56,42,310/- is added by the Assessing Officer (hereinafter referred to as ld. 'AO') u/s 68 of the Act. The said order has been placed by the assessee before the ld. CIT(A) wherein also appeal of the assessee has been dismissed on account of non-compliance and also on the point of limitation as assessee failed to file any sufficient cause regarding the delay of 100 days.

Being aggrieved and dissatisfied with the impugned order, the present appeal has been preferred.

1.2. Ld. Counsel for the assessee has only submitted in course of argument that assessee is a senior citizen suffering from various medical issues and due to that reason, he could not contact any professional for the purpose of filing appeal or to submit his explanation before the ld. AO. Ld. Counsel for the assessee submits that assessee should be given an opportunity to place his case before the lower authorities. The assessee has filed an affidavit in support of his contention.

1.3. On the contrary, ld. D/R supports the impugned order.

2. We have perused the record and it appears to us that the order of ld. AO was passed in absence of the assessee. The order of ld. CIT(A) has also been passed as there was no compliance on behalf of the assessee. We have gone through the affidavit filed by the assessee which is as follows:

*"I, Malay Bose, son of Late Sukhendu Mohan Bose aged, about 63 years, by religion Hindu, residing at 4/46 Bijoygarh Kolkata -700032 do hereby solemnly affirm and state as follows-*

1. *That a reassessment order was passed u/s 144/143(3) r.w.s 147 on 18.12.2019 for the AY: 2012-13.*
2. *That the last date of filing the appeal before CIT(A) was on or around 17.01.2020.*
3. *That there was a delay of around 100 days in filing the appeal before CIT(A).*
4. *That I was neither aware of the initiation of the reassessment proceedings nor about the reassessment order since I was suffering from cerebrovascular diseases and various ill health conditions including paralysis.*
5. *That when I was in receipt of a demand recovery letter on or around March, 2020, I came to know about the said re-assessment proceedings and the said order.*
6. *That however, I could not contact any professional for the purpose of filing of appeal against the said order since during that relevant period lockdown was declared by the Govt, of India due to covid.*
7. *That later on when the situation was normalised a little bit then I contacted Mr. D. Sarkar, a tax consultant and the appeal was finally filed before the CIT(A) on 09.06.2020.*
8. *That I am a senior citizen having various medical issues since long and I am not in a position to look after my case and I was totally dependent on my tax consultant for making necessary compliance before the CIT(A).*
9. *That on receipt of the exparte appellate order, it came to my knowledge that proper compliances had not been done by his end.*
10. *That I give an undertaking that I shall make due compliance in case the abovementioned case is sent back to the file of the lower authorities.*
11. *That the facts stated in para 1 to 9 are true to the best of my knowledge and belief and paragraph 10 is an undertaking given by me.”*

3. Keeping in view the facts of the case as well as the affidavit filed by the assessee, for the interest of justice, the assessee has been given an opportunity to place his case before the ld. AO by submitting the entire papers which he wants to file. Accordingly, the order of ld. AO confirmed by the ld. CIT(A) is hereby set aside. Case is restored to the file of ld. AO for fresh decision after hearing the assessee. The assessee is directed to place all the documents in support of the case before the ld. AO.

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

**Order pronounced in the open Court on 22<sup>nd</sup> November, 2024.**

Sd/-

**[Rajesh Kumar]**

Accountant Member

Dated: 22.11.2024

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. Purushottamlal Singhania, C/o Subash Agrawal & Associates, Advocates, Siddha Gibson, 1, Gibson Lane, Suite 213, 2<sup>nd</sup> Floor, Kolkata, West Bengal, 700069.**
- 2. ACIT, Cir.-29, Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata