

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Sh. Satbeer Singh Godara, Judicial Member

ITA No. 339/Del/2024 : Asstt. Year: 2015-16

Markanda Oil Store, M/s Markanda Oil Store, Petrol Mump, Barara Road, Shahabad Markanda, Haryana-136135	Vs	Commissioner of Income Tax(Appeals), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AADFM4234D		

Assessee by : None

Revenue by : Sh. Sanjay Kumar, Sr. DR

Date of Hearing: 11.11.2024

Date of Pronouncement: 21.11.2024

ORDER

This assessee's appeal for Assessment Year 2015-16, arises against the order of CIT(A)/NFAC, Delhi dated 28.11.2023 in case No. ITBA/NFAC/S/250/2023-24/1058272512(1) in proceedings u/s 143(3) r.w.s. 263 of the Income Tax Act, 1961 (in short "The Act").

2. Case called twice. None appears at the assessee's behest. It is accordingly proceeded *ex-parte*.

3. It emerges during the course of hearing that the assistance coming from the departmental side that the CIT(A)/NFAC lower appellate discussion under challenge as refused to condone 265 days delay in filing of the lower appeal instituted on 14.11.2022 against the Assessing Officer's assessment dated 25.01.2022.

4. Learned departmental representative is hardly dispute the clinching fact that not only the assessee had condonation petition forming part of the case record gives a reasonable cause on account of circumstances beyond its control but also the CIT(A)/NFAC has not considered hon'ble apex court landmark direction in cognizance for explanation of limitation in re had directed exclusion of the time period from 15.03.2020 to 28.02.2022 for further window upto 90 days to be counted from 01.03.2022. It is thus clear that all this has escaped learned CIT(A)/NFAC's consideration and therefore, it is deem it appropriate in the larger interest of justice to restore the assessee's substantive ground raised herein back to the file of CIT(A)/NFAC for afresh appropriate adjudication as contemplated u/s 250(6) of the Act. The same shall be indeed subject to a rider that the assessee itself shall plead and prove all the relevant facts at its risk and responsibility within three effective opportunities, in consequential proceedings.

5. This assessee's appeal is allowed for statistical purpose in above terms.

Order Pronounced in the Open Court on 21/11/2023.

Sd/-
(Satbeer Singh Godara)
Judicial Member

Dated: 21/11/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR