

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, KOLKATA

[Before Shri Rajesh Kumar, AM& Shri Pradip Kumar Choubey, JM]

I.T.A. No. 2046/Kol/2024

Assessment Year: 2017-18

Debrup Banik 256, Netaji Colony, Baranagar, Noapara S.O., Kolkata-700090. (PAN: AZGPB0704P)	Vs.	Deputy Commissioner of Income Tax, Circle-50(1), Kolkata.
Appellant		Respondent

Date of conclusion of Hearing	25.11.2024
Date of Pronouncement	05.12.2024
For the Appellant	Shri K. K. Khemka, Advocate
For the Respondent	ShriPradip Biswas, Addl. CIT, Sr. DR

ORDER

Per Shri Rajesh Kumar, AM

This appeal filed by the assessee is against the order of Ld. CIT(A), NFAC, Delhi dated 21.08.2024 for AY 2017-18 arising out of penalty order passed u/s. 271AAC(1) of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) by AO, e-Assessment Centre, Delhi dated 21.01.2022.

2. At the outset, Ld. Counsel for the assessee submitted that this appeal has been passed against the confirmation of penalty of Rs.61,800/- as imposed by the AO u/s. 271AAC(1) of the Act. Ld. Counsel for the assessee submitted that the quantum appeal in this case is already pending before the AO. The Ld. AR further submitted that since penalty order has been passed ex parte without considering merits of the case, therefore, in the interest of justice and fair play the present appeal may also be restored to the file of the AO so that both the cases i.e. quantum as well as penalty issue could be decided together.

3. Ld. DR, on the other hand, left the issue to the wisdom of the Bench.

4. After hearing the rival contentions and perusing the material available on record, we observe that the AO has imposed this penalty for non-compliance by passing ex-parte order.

Even during the penalty proceeding, the assessee was non-compliant before the AO as well as the Ld. CIT(A). Considering these facts and circumstances, we are of the view that to mitigate the ends of justice, assessee should be given one opportunity to present its case before the lower authorities. Therefore, we restore this appeal before the AO with a direction to decide the same after affording a reasonable opportunity of hearing by considering our observation made hereinabove and in accordance with law.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 5th December, 2024

Sd/-
(Pradip Kumar Choubey)
Judicial Member

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 5th December, 2024

JD, Sr. PS

Copy of the order forwarded to:

1. Appellant–Shri Debrup Banik.
2. Respondent – Assessing Officer, National e-Assessment Centre, Delhi.
3. CIT(A), NFAC, Delhi
4. Pr. CIT
5. DR, ITAT, Kolkata,
True Copy

By Order

Assistant Registrar
ITAT, Kolkata Bench, Kolkata