

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

**Before Shri Sanjay Garg, Judicial Member and
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No.2129/Kol/2024
Assessment Year: 2017-18**

Manik Halder **Appellant**
Bhiringee Gram Bhiringee,
P.O. Durgapur-713213,
Dist. Paschim Burdwan, West Bengal
(PAN: AAMPH6616B)

vs.

ACIT, Circle-1, Durgapur **Respondent**

Appearances by:

Shri Arvind Agarwal, Advocate appeared on behalf of the Appellant
Sm. Ruchika Sharma, Sr. DR appeared on behalf of the Respondent

Date of concluding the hearing: 30.12.2024
Date of pronouncing the order: 31.12.2024

आदेश / ORDER

Per Sanjay Garg, Judicial Member :

The captioned appeal has been preferred by the assessee against the order dated 31.07.2024 of the Ld. Commissioner of Income Tax, (Appeal), National Faceless Appeal centre (NFAC) [hereinafter referred to as the "Ld. CIT(A)"] passed u/s. 154 r.w.s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for AY 2017-18.

2. Registry has pointed out that there is some delay in filing the present appeal without mentioning as to how much is the delay in filing the appeal. On perusal of the record, it reveals that the impugned order has been passed by the Ld. CIT(A) dated 31.07.2024 and the present appeal has been received by post by the Registry on 21.10.2024, therefore, there does not seem any much delay in filing the present appeal. The short delay, if any, in filing the present appeal, under the circumstances, is hereby condoned.

3. Assessee is aggrieved in this appeal against the action of the Ld. CIT(A) in dismissing the rectification application filed by the assessee u/s. 154 of the Act.

4. At the outset, the Ld. Counsel for the assessee has brought our attention to the impugned order of the Ld. CIT(A) to submit that the same is an ex parte order. The Ld. Counsel in this respect has submitted that in fact the Ld. CIT(A) did not issue notice at the e-mail address provided by the assessee in appeal Form No. 35 filed before the Ld. CIT(A), therefore, the assessee was not aware of the date of hearing of the aforesaid application before the Ld. CIT(A). A separate affidavit in this respect has also been filed, wherein it has been stated that in Form 35 in the relevant column no. 17, which was meant for address and e-mail at which the notice can be issued to the appellant, the e-mail ID was mentioned as "mpd_manik@hotmail.com" whereas, the notices were issued by the Ld. CIT(A) at the address mentioned in personal details along with e-mail at jitendermandal@india.com. The Ld. Counsel in this respect has submitted that none of the notices issued by the Ld. CIT(A) came to the notice of the assessee, therefore, the case of the assessee remained unrepresented before the Ld. CIT(A). He, therefore has pleaded that the assessee may be given an opportunity to present his case before the Ld. CIT(A).

5. In view of the above facts and submissions, we are of the view that interests of justice will be well served if the assessee is given an opportunity to present his case before the Ld. CIT(A). The impugned order of the Ld. CIT(A) is accordingly, set aside and the matter in the appeal is restored to the file of the Ld. CIT(A) for decision afresh. The Ld. CIT(A) will give proper opportunity to the assessee to present his case and thereafter decide the matter in accordance with law. It is also directed that the Ld.

CIT(A) will issue notice of hearing at the e-mail address provided by the assessee in Form 35, column 17.

6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order is pronounced in the open court on 31.12.2024.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sanjay Garg]

न्यायिक सदस्य/Judicial Member

Dated: 31.12.2024.

JD Sr. P.S

Copy of the order forwarded to:

1. **Appellant – Shri Manik Halder**
2. **Respondent – ACIT, Circle-1, Durgapur**
3. **CIT(A), NFAC, Delhi**
4. **Pr. CIT**
5. **CIT(DR),**

True Copy

By Order

Assistant Registrar, ITAT, Kolkata