

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCH, 'A', CHANDIGARH

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT &
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 403/CHD/2024

निर्धारण वर्ष / Assessment Year : 2016-17

Kaysons Apparels, 193-L, Model Town, Ludhiana 141002	बनाम Vs.	The ITO, Ludhiana
स्थायी लेखा सं./PAN NO: AAPKF1728E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(PHYSICAL HEARING)

निर्धारिती की ओर से/Assessee by : Shri Ashwani Kumar, CA

राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, Addl. CIT, Sr.,DR

सुनवाई की तारीख/Date of Hearing : 20.01.2025

उदघोषणा की तारीख/Date of Pronouncement : 22.01.2025

आदेश/Order

Per Krinwant Sahay, AM :

Appeal in this case has been filed by the assessee against the order dated 12.03.2024 of ld. Commissioner of Income Tax (Appeals), NFAC, Delhi [hereinafter referred to as 'CIT(A)'], for the Assessment Year 2016-17.

2. At the very outset, ld. Counsel for the Assessee submitted that the assessment order passed by the Assessing Officer is an ex-parte order and the CIT(A) has dismissed the appeal for

the reason that the appeal filed was delayed by 308 days though the application for Condonation of Delay was filed before the Id. CIT(A) but the Id. CIT(A) did not condone the delay and dismissed the appeal without giving any finding on the merits of the case. The Id. Counsel prayed that the delay in filing of the appeal was because of the reasons beyond the control of the Assessee as the Assessee had not received any notice either from the A.O. nor did the Assessee receive any assessment order. It came to know about completion of assessment only after the receipt of notice for depositing tax and then they obtained a copy of the assessment from the A.O. and filed this appeal which was delayed by 308 days.

3. The Id. DR relied on the orders of the CIT(A).

4. We have considered the submissions of the Counsel of the Assessee and the appellate order passed by the Id. CIT(A). We find that the assessment order passed by the Assessing Officer in this case is an ex-parte order as the Counsel of the Assessee claims that the Assessee did not receive any notice for the assessment. We also find that the appellate order passed by the CIT(A) is on technical ground as the Id. CIT(A) has not condoned the delay in filing of the appeal and at the

same time he has not given any findings in his appellate order. It is against the natural justice to the Assessee. Accordingly, we hereby order to condone the delay in filing of the appeal before the Id. CIT(A) and remand this case back to the file of the CIT(A) to be decided afresh on merit, in accordance with law, on affording due and adequate opportunity of hearing to the Assessee. The Assessee, no doubt, shall cooperate in the fresh proceedings before the CIT(A). All pleas available under the law shall remain so available to the assessee. Ordered accordingly.

6. In the result, appeal is allowed for statistical purposes.

Order pronounced on 22 .01.2025.

Sd/-
(RAJPAL YADAV)
Vice President

Sd/-
(KRINWANT SAHAY)
Accountant Member

“आर.के.”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,