

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

**Before Shri Rajesh Kumar, Accountant Member and Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No.1099/Kol/2024**  
Assessment Year: 2017-18

**Kushal Bharat Realcon Pvt. Ltd.....Appellant**

16, Ganesh Chandra Avenue,  
Kolkata – 700013.

**[PAN: AAHCM3213B]**

vs.

**ITO, Ward-2(3), Kolkata..... Respondent**

**Appearances by:**

Shri Siddharth Agarwal, Advocate, appeared on behalf of the appellant.

Shri Ashutosh Kumar, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 15, 2025

Date of pronouncing the order : January 27, 2025

**आदेश / ORDER**

**Per Sonjoy Sarma, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 05.09.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. At the outset, the Registry has informed that there is a delay of 192 days in filing the present appeal. The assessee filed an application for condonation of delay stating reasons for such delay. After considering the application, we find reasonable cause and the delay was not intentional. We, therefore, condone the delay in filing the appeal and adjudicate the appeal on merits of the case

3. Brief facts of the case are that the assessee filed its return of income for the assessment year 2017-18 declaring total income of Rs.17,15,430/-. The case of the assessee was selected for scrutiny

assessment followed by notice issued u/s 143(2) and 142(1) of the Act directing the assessee to submit its bank statement and cash book for the financial year 2016-17 as well as for the preceding financial years i.e. 2015-16 and 2014-15. However, the assessee partially complied and submitted sales data but the submissions were incomplete and failed to include a comprehensive conciliation of cash sales with previous year i.e. F.Y 2015-16 as was required vide notice u/s 142(1) of the Act. In the absence of supporting documents regarding cash deposits of Rs.1,24,00,000/- made during the relevant financial year, the amount was added to the assessee's total income as the assessee failed to substantiate the same.

4. Aggrieved by the above order, the assessee went in appeal before the ld. CIT(A) but the ld. CIT(A) dismissed the appeal of the assessee due to non-compliance as the assessee failed to appear before the appellate authority.

5. Dissatisfied with the above order, the assessee approached before this Tribunal raising various grounds. However, the primary contention of the assessee is that the order passed by the ld. CIT(A) was ex parte order as the assessee did not receive any notice. The ld. AR argued that the notices were issued to an outdated email address that was no longer in use which prevented the assessee from complying with the proceedings. The assessee pleaded before the Tribunal for giving another opportunity to submit its submissions before the authorities below.

6. On the other hand, the ld. DR did not raise any significant objection but emphasised that the assessee should fully comply with the notices issued by the authorities below in future proceedings if one more opportunity is given to the assessee.

7. We, after hearing both the parties and perusing the materials available on record, find that the order of the Id. CIT(A) is ex parte order without ensuring proper service of notice thereby denying the adequate opportunity to present the case by the assessee. We also find that the notices sent by the Id. CIT(A) to an outdated email address resulting in its inability to comply with the proceedings, is plausible. We note that the Id. CIT(A) dismissed the appeal of the assessee without going into merits and decided only on the ground of non-compliance on the part of the assessee. We, therefore, find that the dismissal of appeal solely on the procedural ground without examining the merits of the case which is essential u/s 250(6) of the Act, is not justified. In the interest of justice and fair play, we deem it fit to provide the assessee one more opportunity to substantiate its case to ensure just and fair assessment. We, therefore, remand back the issue to the file of the Assessing Officer with a direction to re-examine the case on merits after giving reasonable opportunity of being heard to the assessee to represent its case. We also direct the assessee to diligently comply with the notices issued and duly participate in the remand proceedings to avoid any further delay.

8. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

***Kolkata, the 27<sup>th</sup> January, 2025.***

Sd/-

**[Rajesh Kumar]**

लेखा सदस्य/Accountant Member

Sd/-

**[Sonjoy Sarma]**

न्यायिक सदस्य/Judicial Member

Dated: 27.01.2025.

RS

*Copy of the order forwarded to:*

1. Kushal Bharat Realcon Pvt. Ltd
2. ITO, Ward-2(3), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches