

आयकर अपीलीय अधिकरण, कोलकाता पीठ "बी", कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH: KOLKATA
श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. No. 1674/Kol/2024
Assessment Year: 2016-17

SNG Mercantile Pvt. Ltd. (PAN: AA ECS 3998 N)	Vs.	ITO, Ward-2(4), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	21.01.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	30.01.2025
For the assessee / निर्धारिती की ओर से	Shri Asim Prakash, A.R
For the revenue / राजस्व की ओर से	Shri Kapil Mandal, Addl. CIT DR.

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is the appeal preferred by the assessee against order of Commissioner of Income Tax (Appeal)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 10.05.2024 for AY 2016-17.

2. At the outset, the Id. Counsel for the assessee submitted that the appeal filed by the assessee after a delay of 30 days. For this, a condonation petition has been filed which is as follows:

भारतीय गैर न्यायिक

दस रुपये **TEN RUPEES**

रु.10 **Rs.10**

INDIA NON JUDICIAL

पश्चिम बंगाल पश्चिम बंगाल WEST BENGAL
 BEFORE THE FIRST CLASS MAGISTRATE

AFFIDAVIT

96AB 253199

MAGISTRATE
 AFFIDAVIT SECTION

I, Surendra Prasad Singh, resident of Flat-32,7,Royd Street,Park Street-700016, West Bengal ,do hereby solely affirm and declare as follows:

1. That I am director of SNG Mercantile Private Limited, having its registered office at 46E, Rafi Ahmed Kidwai Road, Room No-1A, 1st Floor Park Street-700016 and is having PAN AAEC3998N.
2. That the order passed by the Ld. CIT (A) for AY 2016-17 was served on the petitioner on 10.05.2024 on the portal but this did not come to the notice of the petitioner till he was informed by his auditor in the month of June.
3. That the last date for filing of appeal before the Income Tax Appellate Tribunal Kolkata was 10.07.2024.
4. That I was unwell and due to medical issues I did not attend my office till 1.08.2024.
5. That I was prescribed complete bed rest. The appeal is therefore delayed by almost 30 days.
6. That I state that I am genuinely interested in pursuing the appeal and undertakes to appear before the tribunal for hearing if a reasonable and proper opportunity is granted to the appellant for which the appellant itself will keep watch on the date of hearing and appear before Tribunal and undertakes to appear before the Tribunal, take the date of hearing so that the appeal may be disposed of in accordance with law.
7. That the aforesaid statement is true to the best of my knowledge and belief.

Solemnly affirmed and declared
 Identified by before me at Calcutta No.....1403
 Himadri Chakraborty This the.....9th.....Day of.....Aug
 Advocate
 Place, Kolkata, West Bengal, India
 Date:09/08/2024 Court, Kolkata

Deponent
SNG Mercantile Pvt. Ltd.
 Director

**Judicial Magistrate, Calcutta
 Incharge of Affidavit Section**

3. The Ld. D.R did not raise any objection in condoning the delay. Therefore, the delay is hereby condoned.

4. Brief facts of the case of the assessee are that the assessee company filed its return of income for the AY 2016-17 declaring total income of Rs. 7,69,460/-. The case of the assessee was selected for scrutiny. A notice u/s 143(2) and 142(1) were issued and duly served on the assessee. In response to the notice the assessee company filed submission through e-filing portal but the assessee has failed to produce any satisfactory explanation, as a result of which, A.O. made an addition of Rs. 2,36,07,905/- as undisclosed income.

5. The said order has been challenged by the assessee before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed as the assessee failed to furnish any documentary evidences and not participated in the proceedings.

Being aggrieved and dissatisfied with the order of Ld. CIT(A).

6. The Ld. Counsel for the assessee instead of arguing into merit of the case has submitted that the assessee has been given an opportunity to place its case before the Ld. CIT(A) as the appeal of the assessee has been dismissed not on merit rather due to non-compliance from the side of the assessee. The Ld. Counsel has submitted that due to some unavoidable reason the assessee could not be able to appear before the Ld. CIT(A) and now assessee undertakes that he will participate in the proceedings.

7. Contrary to that the Ld. D.R supported the order of Ld. CIT(A).

8. We have perused the order of Ld. CIT(A) and find that it has been passed an ex-parte order without discussion on the merit of the case of the assessee. The Ld. CIT(A) has confirmed the addition made by the AO only on this account that despite being provided ample opportunity there is no documentary evidences filed by the assessee. Before us, the Ld. CIT(A) has placed several papers which according to the assessee are essential piece of evidence to come to the right conclusion of the case. The index of the paper filed before us are as below:

- Annexure 1-ITR 6 FY 2015-16
- Annexure 2- ITR V FY 2015-16
- Annexure 3-Auditor's Report & Financial Statements FY 2015-16
- Annexure 4- 26AS FY 2015-16
- Annexure 5- Agreement with Allahabad Zone
- Annexure 6- Auditor's Report & Financial Statements FY 2011-12
- Annexure 7- ITR 6 FY 2011-12
- Annexure 8- ITR V FY 2011-12
- Annexure 9 – 26AS FY 2011-12
- Annexure 10- List of Sundry debtors
- Annexure 11- CA Certificate
- Annexure 12- Bank Statement FY 2015-16

9. Going over the order of Ld. CIT(A), we are inclined to give an opportunity to the assessee to place its case before the Ld. CIT(A). Accordingly, the order passed by the Ld. CIT(A) is hereby set aside and the appeal is restored to the file of Ld. CIT(A) and the Ld. CIT(A) is directed to pass an order afresh after hearing the assessee and going over the documents filed by the assessee before us.

In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 30th January, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 30th January, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- SNG Mercantile Pvt. Ltd., C/o, Asim Prakash, ALP & Associates, Flat-1 B, Geetanjali Apartment, 8B, Middleton Street, Kolkata-700071.
2. Respondent – ITO, Ward-2(4), Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata