

आयकर अपीलीय अधिकरण
दिल्ली पीठ "डीबी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री अवधेश कुमार मिश्रा, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "DB", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER

आअसं.74/देहरादून/2023(नि.व. 2017-18)
ITA No.74/DDN/2023 (A.Y.2017-18)

Gurdyal Singh,
Jayanagar No. 5, Chattarpur, Rudrapur,
Uttarakhand 263153
PAN: DJMPS-8978-B

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer,
Mandi Samiti Parisar, Kichha Road,
Rudrapur, Uttarakhand 263153

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Akshay Aggarwal, Chartered Accountant
प्रतिवादीद्वारा/ Respondent by : Shri Amar Pal Singh, CIT- DR (Through VC)
सुनवाई की तिथि/ Date of hearing : 12/02/2025
घोषणा की तिथि/ Date of pronouncement: : 12/02/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 31.08.2023, for assessment year 2017-18.

2. Shri Akshay Aggarwal, appearing on behalf of the assessee submits that the CIT(A) in an ex-parte proceedings has dismissed appeal of the assessee without affording reasonable opportunity of making submissions. The CIT(A) failed to

serve the notice of hearing of appeal on e-mail address mentioned in Form No. 35. Hence, there was no representation from the assessee during First Appellate Proceedings.

3. Per contra, Shri Amar Pal Singh representing the department vehemently defended impugned order and submitted that the notices were sent to the assessee on four occasions, the assessee failed to respond to any of the notices.

4. Both sides heard. A perusal of impugned order reveals that the CIT(A) had sent notice of hearing to the assessee on 07.03.2020, 24.12.2020, 28.07.2022 and 05.03.2023. However, the mode of service and address on which notice was issued by the CIT(A) is not emanating from the records. The contention of assessee is that the notices sent by the CIT(A) were never received by the assessee on the email id mentioned in Form no. 35 for the purpose of communication of the notices. We further find that the CIT(A) has dismissed the appeal for non prosecution. It is a trait law that the CIT(A) has no power to dismiss appeal for non prosecution. The provisions of section 250 r.w.s 251 of the Income Tax Act, 1961(hereinafter referred to as 'the Act') mandates the CIT(A) to decide appeal on merits. Considering entire facts of the case, we deem it appropriate to restore appeal back to the CIT(A) for *denovo* adjudication, after affording reasonable opportunity of making submissions to the assessee, in accordance with law.

5. The CIT(A) shall serve the notice to the assessee on the email address provided by the assessee in Form No. 35.

6. The assessee shall respond to the notice(s) served by the CIT(A), without fail.

7. In the result, impugned order is set aside and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Wednesday the 12th day of February, 2025.

Sd/-

(AVDHESH KUMAR MISHRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली / Delhi, दिनांक/Dated 12/02/2025

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषित Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., देहरादून /DR, ITAT, Dehradun
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, Dehradun