IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI

BEFORE SHRIAMARJIT SINGH, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

I.T.A No.93 /Mum/2025
(Assessment Year: 2022-23)

Symbolist Technology Pvt Ltd 255, Jai Hind Co.opp.Hsg Society, R-3 Wing, Mahatma Phule Nagar, Khartan Road, Thane Bazar S.O. Thane-400 601 PAN: ABECS0569G	vs	The Assessing Officer, Ward-15(3)(1), Mumbai Aayakar Bhavan, M.K. Road, Mumbai-400020
APPELLANT		RESPONDENT

Assessee by	:	Shri Manoj Kataruka, Adv
Respondent by	:	Ms. Monika H Pande,SR. AR.
Date of hearing	:	18/02/2025
Date of pronouncement	:	19/02/2025

O R D E R

PER ANIKESH BANERJEE, J.M.:

Instant Appeal of the assessee was filed against the order of the Ld.Commissioner of Income-tax (Appeal) Addl/JCIT(A)-2, Ahmedabad, {in short, 'Ld.CIT(A)'} order passed under section 250 of the Income tax Act, 1961 (for brevity the "Act") for A.Y. 2022-23, date of order 27/05/2024. The impugned

order was emanated from the order of the CPC, Bengaluru (for brevity the "Ld.AO"), order passed under section 143(1) of the Act, date of order 07/08/2023.

2.   During the arguments before the Bench, the Ld. AR stated that the appeal had been filed with a delay of 165 days. An affidavit was duly submitted by Mr. Sachin Brijraj Tiwari, the Director of the assessee company, in support of the condonation of delay.The Ld. AR explained that the assessee company's tax advocate, Shri Ratan Soor, had been in poor health and was advised complete rest, which resulted in his prolonged absence from daily office work. Due to his illness, the advocate was unable to track updates on the Income Tax Department's portal. Consequently, the assessee only became aware of the appeal's disposal upon receiving the demand notice. Immediately thereafter, the assessee took necessary action and filed the appeal.The Ld. DR did not raise any strong objections to the assessee's submissions. Accordingly, we condone the delay of 165 days and admit the appeal for adjudication.

3. The Ld. AR argued that the assessee's appeal was dismissed ex parte by the Ld. CIT(A). The first appeal was filed with a delay of 13 days, and the reasons for the delay were duly explained at the time of filing. However, the Ld. CIT(A) rejected the condonation petition, deeming it non-maintainable under Section 249(2) of the Act.It was further contended that the assessee had not received any notice of hearing from the office of the Ld. CIT(A). Upon perusal of the appellate order, we find that the appellate authority has not made any reference to the service of such notice.

4. However, the appellate decision was made without considering the assessee's submission, leading to a denial of a fair opportunity and a violation of natural

justice. The assessee was deprived of the chance to present their claim before the 1st appellate authority. In appeal order there is no discussion about the issuance of notice to the assessee. We are, therefore, of the opinion that interest of justice would be sub served if the matter is remitted back to the file of the ld. CIT(A) for consideration of assessee's plea. The ld. DR has not made any strong objection against the submission of the ld. AR. We are not expressing any views on the merits of the case so as to limit the appeal procedure before the Ld. CIT(A). Needless to say, the assessee should get a reasonable opportunity of hearing for setting aside proceedings. On the other hand, the assessee should be diligent in set aside appeal proceeding for expeditious disposal of appeal.

5. In the result, the appeal in **ITA No.93/Mum/2025** is allowed for statistical purposes.

Order pronounced in the open court on 19th day of February 2025.

Sd/-   sd/-

(AMARJIT SINGH)   (ANIKESH BANERJEE)
ACCOUNTANT MEMBER   JUDICIAL MEMBER
Mumbai,दिनांक/Dated: 19/02/2025
Pavanan
Copy of the Order forwarded to:
1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुबंई/DR, ITAT, Mumbai
5. गार्डफाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar), **ITAT, Mumbai**