

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI SONJOY SARMA, JM**

**ITA Nos.1204 & 1205/KOL/2024
(Assessment Year:2013-14)**

Bijay Murarka
Milanpally, Netaji Sarani Road,
Ward No.25, Siliguri,
West Bengal 734005

Vs.

ITO, Ward-1(2),Siliguri
Aaykar Bhavan, Matigara,
Paribahan Nagar, Siliguri,
West Bengal 734101

(Appellant)

(Respondent)

PAN No. AXEPM4499A

Assessee by : Shri A.K. Tibrewal, AR
Revenue by : Shri Huidrom Robindro Singh, DR

Date of hearing: 05.02.2205

Date of pronouncement : 24.02.2025

ORDER

Per Rajesh Kumar, AM:

These are appeals preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 08.02.2024 for the AY 2013-14.

02. At the outset, we note that there is a delay of 50 days in filing the appeals by the assessee for which the condonation petitions along with affidavits were filed, explaining the delay in filing the appeals. Having considered the condonation petition and the contents of the affidavit, we find that the delay in filing the appeals to be for the sufficient and genuine reasons and therefore, the delay in filing the appeals is condoned.

**1204/KOL/2024**

03. The Id. AR pointed out that the assessment as well as the appellate order were passed ex-parte, when the assessee failed to respond to the various opportunities allowed by the lower authorities. The Id. Counsel for the assessee submitted that the assessee's son was seriously sick as he was diagnosed with Hemolytic Uremic Syndrome, which is a serious disease that affects the kidneys and also causes blood clotting and his treatment required constant attention and care and the appellate proceedings could not be attended. Therefore in the interest of justice and fairplay the counsel prayed before the Bench that the assessee may be given one more opportunity to present his case before the Id. Assessing Officer
04. The Id. DR on the other hand left the issue to the wisdom of the Bench.
05. Having heard the rival contentions and perusing the material available on record, we find that non-compliance on the part of the assessee in the assessment as well as in the appellate proceedings was on account of prolonged illness of assessee's son, who was suffering from a kidney and blood related ailments requiring continuous medical care and attention. Therefore, in the interest of justice and fair play, we are of the view that the assessee needs to be given one more opportunity to present his case on merit before the Id. Assessing Officer. Accordingly, we restore the appeal before the Id. AO with a direction to decide the issue afresh after affording reasonable opportunity of being heard to the assessee. The appeal of the assessee is allowed for statistical purpose.

**1205/KOL/2024**

06. Since, we have restored the quantum appeal to the file of the Id. AO, consequential penalty appeal against the penalty order which is also ex-parte before both the authorities is also restored to the file of the Id. AO with the same direction.

07. In the result, the both the appeals are allowed for statistical purposes.

Order pronounced in the open court on 24.02.2025.

Sd/-
(SONJOY SARMA)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 24.02.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata