

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" 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. Nos. 359 to 362/Kol/2024**

**Assessment Year: 2015-16**

Preeti Bhalotia  (PAN: ADWPB 9452 G)	Vs.	ACIT-DCIT, Circle-44, Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	06.02.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	26.02.2025
For the assessee / निर्धारिती की ओर से	Shri A. K. Bhalotia, FCA
For the revenue / राजस्व की ओर से	Shri Sailen Samadder, Addl. CIT Sr. DR

**ORDER / आदेश**

**Per Bench:**

These are the appeals preferred by the assessee against order of Commissioner of Income Tax (Appeal)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] for AY 2015-16. In all the four appeals, issues are common so taken up together for disposal.

2. Brief facts of the case of the assessee are that the assessee being an individual engaged in the business of utilization trading in sugar, under name and style of M/s Pratik Enterprises. The assessee filed its return of income for AY 2015-16 claiming refund of Rs. 6,20,530/- u/s 139(4) of the Act. The case was selected for scrutiny, notices u/s 143(2) was issued but there was no response on behalf of the assessee, as a result of which, the order u/s 144 was passed by the AO by making an addition of Rs. 95,67,100/-.

3. Aggrieved by the said order the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed as there was no response on behalf of the assessee.

Being aggrieved and dissatisfied the assessee preferred appeal before us.

4. The Ld. A.R instead of arguing into the merit of the case has only submitted that the assessee has to give an opportunity to place her case before the AO, as due to unavoidable circumstances the assessee could not be able to attend before two lower authorities, i.e AO and the Ld. CIT(A). The Ld. Counsel for the assessee prayed that one last opportunity should be given to the assessee to place her case before the AO. The ld. Counsel has also filed paper book before us.

5. Contrary to that the Ld. D.R supports the impugned order.

6. Upon hearing the submission of the Counsel for the respective parties, we have gone through the order passed by the Ld. CIT(A) as the AO and find that both the orders have been passed when the assessee did not file any response. The Ld. CIT(A) has clearly held that the during the appellate stage the assessee has not made any submission to justify the claim made in the return of income. The Ld. Counsel before us filed reason for continuous non-response from assessee's side during the course of assessment as well as the appellate proceedings which is as under:-

*“Unfortunately appellant had come across various unavoidable situations one by one from last 7-8 years which can be summarized as below:*

- a) Health of one of my family member, Late Shri Ram Bhalotia, was so poor and getting so poorer day by day during the period of 2015 to till his death (in 2020), that I was most of time engaged into his treatment and care only.
- b) Further, during the 1<sup>st</sup> wave of pandemic due to corona-virus, my entire family members including myself were critically infected by coronavirus. By God Grace, we all have recovered but post recovery, various health issues were cropped up one by one and we have been managing it somehow. But again.
- c) During the 2<sup>nd</sup> Wave of said pandemic, entire family members including myself got critically infected by the said virus. This time it was very challenging for all of us. Somehow, we all have recovered but with a lot of critical health issues stated happening one by one t hereafter. And most of time, I and my other family members had been chasing such unavoidable health situations coming time to time in front of us. But as last, I lost my father-in-law.
- d) Thereafter my son got injured very badly in an accident and his left knee was completely broken. Doctor's diagnosis was "High grade tear of the anterior cruciate ligament of left knee" and he was admitted to hospital for critical Knee Surgery and as per Doctor's advice he was under bed rest for 6 months after surgery. He was not able to stand on his leg during almost 9 months and completely lying on bed rest and till now even he has not recovered full and as per doctor's advice he has to continue the rest for further 3 months and thereafter based on MRI of knee, doctors will finally advice what to do.
- e) On the other hand, due to happening of all such events one by one, my business had been hampering continuously and very badly during these periods. AS a result of which I had been incurring huge losses. A table showing year-wise audited turnover and net profit/loss of last 6 years as follows for your kind perusal:

Financial year	Trunover(Rs.)	Net Profit/ Loss (Rs)
2017-18	510 crore	25 Lakhs
2018-19	126 crore	5 Lakhs
2019-20	40 crore	(-)102 Lakhs
2020-21	45 crore	(-)62 Lakhs
2021-22	29 crore	(-)37 Lakhs
2022-23	5 crore	(-)15 Lakhs

Above table is clearly evidencing the real position of appellant on year to year. There is continuous deep fall in turnover and profit. During last 4-5 years, appellant incurred huge losses. As a result of which proprietor's capital became negative.

- f) Due to such continuous losses, huge liabilities had been piling up on gradual basis which is still payable and it a big headache for me from last 4-5 years to till now and therefore heavy mental stress is being cropping up on gradual basis and still continues and I am

*compelling bound in such manner that all my time, energy and efforts is being consuming in getting rid of such liabilities.*

*g) Due to one by one incidence so happened along with incurrance of loss and piling up of liabilities, various legal compliances could also not be complied in the time and manner as it should be. Further , some GST related cases going one, although all such cases have strong merits in favour of appellant, buy cases are going on which further enhances the overall mental stress of appellant.”*

7. It is pertinent to mention herein that before us the Ld. Counsel filed a bunch of paper which according to the assessee are essential piece of evidence to substantiate the claim of the assessee. It is further important to mention herein that consequent to the order passed by the AO penalty proceedings has also been initiated. Since in all cases issues are same as the assessee has to give one more opportunity to place her case before the AO. Keeping in view, the facts stated by the assessee and for the interest of justice, we are inclined to give an opportunity to the assessee to place her case before the AO. Accordingly, all the appeals of the assessee are hereby restored into the file of AO for fresh adjudication. The order passed by the A.O confirmed by the CIT(A) are hereby set aside.

In the result, all the appeals filed by the assessee are allowed for statistical purposes.

Order is pronounced in the open court on 26<sup>th</sup> February 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 26<sup>th</sup> February, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Preeti Bhalotia, 9, Jagmohan Mallick Lane, Burrabazar, Kolkata-700007
2. Respondent – ACIT-DCIT, Circle-44, 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