

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, KOLKATA
BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.2035/KOL/2024
(निर्धारण वर्ष / Assessment Year :2011-2012)

M/s Bengal Shristi Infrastructure Development Limited, Bug-5, Upper Ground Floor, City Centre, Durgapur-713216	Vs	ACIT, Circle-2, Durgapur
PAN No. :AACB 8990 N		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारित की ओर से /Assessee by	:	Shri Sunil Surana, AR
राजस्व की ओर से /Revenue by	:	Shri P.N.Barnwal, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	05/05/2025
घोषणा की तारीख/ Date of Pronouncement	:	05/05/2025

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order dated 26.04.2024, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2023-24/1052357794(1), for the assessment year 2011-2012.

2. Shri Sunil Surana, AR appeared on behalf of the assessee. Shri P.N.Barnwal, CIT-DR appeared on behalf of the revenue.

3. At the outset, on perusal of the appeal record, we find that the appeal of the assessee is filed belatedly by 464 days. In this regard, the assessee has filed an application stating sufficient reasons for condonation of delay, which in our opinion, are plausible and not found to be false. Accordingly, the delay of 464 days in filing the appeal by the assessee is condoned and the appeal is heard on merits.

4. It was the submission of the Id. AR that the impugned order passed by the Id. CIT(A) is an ex-parte order without giving sufficient opportunity of being heard to the assessee. It was also submitted that the assessee may be given one more opportunity to represent its case before the Id. CIT(A), so that the assessee could be able to provide the details to substantiate its case for the year under consideration before the Id. CIT(A).

5. In reply, Ld. CIT-DR supported the orders of the Id. CIT(A) and the Id. AO. It was the submission that restoring the matter to the file of CIT(A) would be, in fact, giving the assessee a second round which should not be granted.

6. A perusal of the impugned order passed by the Id. CIT(A) at para 5.2, shows that the assessee has not cooperated in the appellate proceedings. However, Id. AR before us requested for one more opportunity to produce the documents before the Id. CIT(A) to file all the details as required. In such circumstances, in the interest of justice, we restore the issues to the file of Id. CIT(A) for readjudicating the issues afresh after granting the assessee adequate opportunity of being heard, subject to a payment of cost of **Rs.50,000/-(Rupees Fifty Thousand only)** by the assessee to the Legal Aid Services, 3rd Floor of the Centenary Building, High Court, Calcutta-700001, within sixty days from the date of this order and receipt of the same would be produced before the Id. CIT(A) at the first hearing. In case the receipt is not duly produced within the time mentioned, the action of the Id. CIT(A) would stand confirmed. The assessee is also directed to cooperate with the Id. CIT(A) in the readjudication proceedings, positively.

7. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 05/05/2025.

Sd/-
(SANJAY AWASTHI)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कोलकाता Kolkata; दिनांक Dated 05/05/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Kolkata