

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA
BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT**

ITA No.178/KOL/2025

(निर्धारण वर्ष /Assessment Year : 2017-2018)

Harendra Kumar Saha, Chhat Jaygir Chilakhana Balapukuri, Tufanganj, Coochbehar, West Bengal	Vs	ITO, Ward-2(2), Coochbehar (Now, ITO Ward-2(1), Coochbehar)
PAN No. :EPLPS 8614 Q		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Soumitra Choudhury, Advocate
राजस्व की ओर से /Revenue by	:	Shri Abhijit Adhikary, JCIT Sr. DR
सुनवाई की तारीख / Date of Hearing	:	05/05/2025
घोषणा की तारीख/ Date of Pronouncement	:	13/06/2025

आदेश / ORDER

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 26.11.2024 passed for Assessment Year 2017-18.

2. Ld. Counsel submitted that the assessee was not aware of passing of the assessment order by the Assessing Officer since it is an ex-parte order, therefore, there is a delay of 80 days, but the Id. CIT(A) has not considered the same and dismissed the appeal of the assessee in *limine*. He further submitted that the assessee is not having knowledge about the passing of the assessment order, therefore, the delay was occurred and he pleaded to condone the delay and remand the matter back to the file of Id. AO to pass the order on merits.

3. On the other hand, Id. Sr. DR vehemently supported the orders of the authorities below.

4. I have heard the submissions of the parties and perused the material available on record. It is an admitted fact that the Assessing Officer has passed the assessment order u/s.144 of the Act. It is also an admitted fact that the Id. CIT(A) has not condoned the delay and he has not passed the order on merits. So far as delay in filing the appeal is concerned, the contention of the assessee is that he is not having knowledge about the passing of the assessment order as well as first appellate order, therefore, the delay was occurred. Hence, considering the facts and circumstances of the case, I am of the view that the delay has occurred due to lack of knowledge about the passing of the orders. Accordingly, I condone the delay in filing the appeal and remit the matter back to the file of Id. AO with a direction to dispose off the case of the assessee on merits after providing sufficient opportunity of being heard to the assessee. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Id. AO, failing which the Id. AO shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 13/06/2025.

Sd/-
(DUVVURU RL REDDY)
उपाध्यक्ष / VICE PRESIDENT

कोलकाता Kolkata; दिनांक Dated 13/06/2025
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.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)
Income Tax Appellate Tribunal, Kolkata