

आयकर अपीलीय अधिकरण, कोलकाता पीठ “डी”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH: KOLKATA
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य एवं श्री राकेश मिश्र, लेखा सदस्य के समक्ष
[Before Shri Pradip Kumar Choubey, Judicial Member & Shri Rakesh Mishra, Accountant Member]

I.T.A. Nos. 807 to 811/Kol/2025
Assessment Years: 2009-10 to 2012-13 & 2014-15

Selvel Enkon Projects (PAN: ABMFS 0398 A)	Vs.	DCIT, Circle-29, Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	19.06.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	25.06.2025
For the assessee / निर्धारिती की ओर से	Shri Arvind Agrawal , Advocate
For the revenue / राजस्व की ओर से	Shri S. B. Chakraborty, Sr. D.R, JCIT

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

These are the appeals preferred by the assessee against the separate orders of learned Commissioner of Income Tax (Appeals)- NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] for AY 2009-10 to 2012-13 & 2014-15 respectively. In all the appeals, issues are common, hence taken up together for disposal by taking ITA No. 807/Kol/2025 for AY 2009-10 as a lead case.

2. It appears from the report of the registry that the appeal has been filed after a delay of 413 days for this the assessee has filed condonation petition., which are as follows-

SI.No.	Name	Mobile No.	E-mail ID
1.	Prasun De	+91 9051377723	prasunde@hotmail.com (Primary)
2.	Surojit Mukherjee	+91 9883278359	surojit_mk@yahoo.co.in (Secondary)

10 APR 2025

পশ্চিমবঙ্গ পশ্চিম বঙ্গাল WEST BENGAL

BEFORE THE NOTARY PUBLIC
 AT ALIPORE POLICE COURT

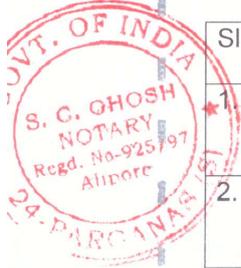
AFFIDAVIT



AL 22511

I, **Khurshed Keki Bulsara**, S/o Keki Rustom Bulsara, resident of 84, Lenin Sarani, Dharmatala, Kolkata 700013, and **Swapan Banerjee**, S/o. Bechu Banerjee, resident of 109, Jyotish Roy Road, Kolkata 700053, **Partners of M/s. Selvel Enkon Projects**, having its registered office at 32, Pramatha Chowdhury Sarani, New Alipore, Kolkata 700053, most respectfully beg to state as under:-

- That, the registered firm M/s. Selvel Enkon Projects, was formed vide a duly executed partnership deed dated 23rd April 2008.
- That, vide a Deed of Partnership dated 1st day of April 2023, we took over the business of the Partnership Firm on its reconstruction with effect from 1st April 2023.
- That, the erstwhile Partners were, M/s Enkon Private Limited represented by Sri Aninda Banerjee, Director, and M/s. Selvel Advertising (P) Ltd represented by Sri Rajiv Ghosh, have since retired from the Firm with effect from the close of 31st March 2023.
- That, in the Income-tax Profile, created under the PA No. ABMFS0398A, the E-mail ID and Mobile No. of the following persons were mentioned:-



5. That, both the above referred persons were employees of the Partners of the erstwhile partnership firm.
6. That, neither Prasun De nor Surojit Mukherjee, whose email id and Mobile no were on the e portal, due to reasons best known to them, did not communicate either to the erstwhile partners nor to us, the present partners of the firm about various hearing notices being issued upon the firm by National Faceless Appeal Centre on different dates between 6th February 2020 to 22nd November 2023.
7. That, on enquiry from the two persons (i.e.) Prasun De and Surojit Mukherjee, whether they had received SMS on their registered mobile no., they could not provide with any such information to us.
8. That, even though the order under section 250 was passed by the National Faceless Appeal Centre on 29th December 2023, the same came to our knowledge only when the penalty order under section 271(1)(c) dated 7th March 2025 was passed by the National Faceless Appeal Centre levying a penalty of Rs. 22,25,616/- and was forwarded to us by Mr Surojit Mukherjee, sometime in the last week of March 2025.
9. That, due to non- cooperation of the person who were responsible for looking after the Income tax matters, the demand raised by the order under section 147 r.w.s 143(3) of the Income Tax Act, 1961 dated 21st December 2016, levying a tax demand of RS. 49,74,200/- and the appeal being dismissed by National Faceless Appeal Centre vide order under section 250 of the Income Tax Act, 1961 dated 29th December 2023, in consonance a penalty order was passed, levying a penalty of RS. 22,25,616/-, has caused immense financial hardship to we, the present partners of the firm.
10. That, in light of the above facts and circumstances, wherein the delay of 4/4 days in filing of the appeal before the Hon'ble Income Tax Appellate Tribunal, Kolkata Bench against order under section 250 of the Income Tax Act, 1961 dated 29th December 2023 passed by the National Faceless Appeal Centre for the Asstt. Year 2009-10, may kindly be condoned and the appeal be admitted by the Hon'ble Income Tax Appellate Tribunal, Kolkata Bench for want of principle of natural justice.
11. That, in our own interest, we have since updated the Profile on the e-Portal and have since mentioned the following:-

Sl.No.	Name	Mobile No.	E-mail ID
1.	Swapan Banerjee	+91 9831500634 (Primary)	swapatra7@gmail.com (Primary)
2.	Khurshed Keki Bulsara	+91 9830274057 (secondary)	kurshed.bulsara@selvelone.com (secondary)

13. That, the statements made in paragraph 1 to 11 are true to the best of my knowledge and belief.

SELVEL ENKON PROJECTS

Swapan Banerjee
 PARTNER
 (Swapan Banerjee)

Solely Affirmed & Declared

On perusal of the condonation petition, the reason for delay in filing the appeals seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee are that the assessee filed return of income for AY 2009-10 declaring loss of Rs. 14,26,640/-. Later the assessee revised the return of income declaring loss of Rs. 6,10,533/-. The AO, after recording the reasons and taking approval from the competent authority, issued notice u/s 148 and in response to the same, the assessee filed return. The AO after considering the reply of the assessee, disallowed an amount of Rs. 71,24,646/- on account of excess depreciation. The AO has further made disallowance u/s 40a(ia) of an amount of Rs. 10,00,666/- claimed by the assessee as expenditure. The AO has also further made disallowance of consultancy charges and bad debts and assessed the net taxable income at Rs. 86,40,580/-.

4. Aggrieved by the said order, the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed.

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

5. The Ld. A.R instead of arguing into the merit of the case has only prayed that the appeal of the assessee be remitted back to the file of Ld. CIT(A) as the assessee could not file any submission nor file any documentary evidences before the Ld. CIT(A) and the Ld. CIT(A) has passed an order in absence of the assessee's submission and evidences, so interest of justice demands to remit the appeals of the assessee to the file of Ld. CIT(A) for fresh adjudication after affording an opportunity to the assessee. The Ld. A.R has submitted that reason of non- appearance before the CIT(A) is that the employees of the partnership firm whose mail-ID and mobile number were shown in the e-portal, in fact they did not communicate regarding the notices or the date of hearing to the assessee, as a result of which, the assessee could not be able to appear before the Ld. CIT(A).

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

7. Upon hearing the submission of the counsel of the respective parties, we have perused the order passed by the Ld. CIT(A) and find that the Ld. CIT(A) has confirmed the order of AO when in spite of several opportunities given to the assessee, the assessee failed to submit documents or submission before him. The Ld. CIT(A) in its order has held that during the course of appellate proceedings the assessee has been allowed multiple opportunities, however, no submission has been made so far. Before us, the Ld. A.R by filing an Affidavit (as discussed above) has stated that the employees of the partnership firm whose mail-ID and mobile number were shown in the e-portal due to reason best known to them, did not communicate and according to him, due to non-cooperative of the person who were responsible for looking after the income tax matter, the appeal has been dismissed and in consonance a penalty order was passed.

8. Keeping in view, the submission made by the assessee as well as going over the order passed by the Ld. CIT(A), and for the interest of justice, we are inclined to restore the appeals of the assessee before the Ld. CIT(A) for fresh adjudication after hearing the assessee. All the appeals of the assessee are remitted back to the file of Ld. CIT(A) for fresh adjudication.

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

Order is pronounced in the open court on 25th June , 2025

Sd/-

Sd/-

(Rakesh Mishra /राकेश मिश्र)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 25th June, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Selvel Enkon Projects, 32, Pramatha Choudhuri Sarani, New Alipore-700053
2. Respondent – DCIT, Circle-29, 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