

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.2968/दिल्ली/2025 (नि.व. 2015-16)

ITA No.2968/DEL/2025 (A.Y.2015-16)

Pracheen Karigar Association,
H. No. 4/294, Street No. 4, Nai Basti, Bahadurgarh,
District Jhajjar, Haryana 124507

PAN: AAAAH-2502-F

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer, Ward-3

Rohtak, Haryana 124001

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Navin Gupta, Advocate.

प्रतिवादीद्वारा/ Respondent by : Ms. Sudha Gupta, SR.DR

सुनवाई की तिथि/ Date of hearing : 31/07/2025

घोषणा की तिथि/ Date of pronouncement: : 31/07/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against an ex-parte order of Commissioner of Income Tax (Appeals)/Additional/Joint Commissioner of Income Tax(Appeals)-2, Kolkata (hereinafter referred to as 'the CIT(A)') dated 05.03.2025, for Assessment Year 2015-16.

2. Shri Navin Gupta, appearing on behalf of the assessee submits that the assessee has been appearing before the CIT(A) from the very first date of hearing, the CIT(A) after condoning delay in filing the appeal decided the appeal on an issue which was never assailed by the assessee in grounds of appeal raised in Form No. 35. The Id. Counsel for the assessee pointed that specific grounds were raised before the CIT(A) in Form No. 35, assailing addition of Rs.6,88,660/- made while processing return of income u/s. 143(1) of the Act. He further pointed that

no ground of appeal relating to denial of benefit u/s. 12A of the Act for delay in filing of Form 10B was raised before the CIT(A). The CIT(A) dismissed the appeal of assessee holding that the CIT(A) is not empowered to condone delay in filing of Form 10B.

3. Per contra, Ms. Sudha Gupta representing the department vehemently defended the impugned order. She submitted that the assessee's appeal has been rightly rejected by the CIT(A) on account of delay in submission of Form No. 10B. The prescribed authorities under the Act has power to condone delay in filing of Form 10B and not the CIT(A).

4. Both sides heard, orders of the authorities below examined. The issue raised by the assessee in appeal before the CIT(A) was disallowance of revenue expenditure amounting of Rs.6,88,660/-. The CIT(A) has decided appeal of the assessee on the issue of delay in filing of Form 10B, whereas, no such ground was raised by the assessee in Form No. 35 before the CIT(A). This appeal is restored back to the CIT(A) with a direction to adjudicate the grounds raised by the assessee in Form No. 35 after affording reasonable opportunity of making submissions to the assessee, is accordance with law.

5. In the result, impugned order is set aside and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Friday the 31st day July, 2025.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 31.07.2025

NV/-

प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI