

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA
BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER
AND
SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER
आयकर अपील सं/ITA No.677/KOL/2025
(निर्धारण वर्ष / Assessment Year : 2012-2013)

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| Raghav Vanijya Pvt. Ltd. 4 th Floor, Room No.4D, 23/1, M.D.Road, Burrabazar, Kolkata-700007 | Vs | DCIT, Circle-9(1), Kolkata |
| PAN No. :AADCR 6456 K | | |
| (अपीलार्थी /Appellant) | .. | (प्रत्यर्थी / Respondent) |
| निर्धारिती की ओर से /Assessee by | | Shri Anil Kochar, Advocate |
| राजस्व की ओर से /Revenue by | : | Shri S.B.Chakraborty, Sr. DR |
| सुनवाई की तारीख / Date of Hearing | : | 01/09/2025 |
| घोषणा की तारीख/ Date of Pronouncement | : | 04/09/2025 |

आदेश / O R D E R

Per Pradip Kumar Choubey, JM :

The assessee has filed the instant appeal against the order dated 09.08.2023, passed by the Id.CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2012-2013.

2. The appeal of the assessee has been filed belatedly by 518 days. In this regard, the assessee has filed an application along with affidavit for condonation of delay stating therein that the Id.CIT(A) vide order dated 09.08.2023 has passed an order ex-parte, since the defects mentioned in the Notice in respect of Appeal Memo submitted in Form 35 was not removed/rectified, thereby dismissed the appeal of the assessee. Accordingly, there had been an inordinate delay in submission of the appeal before this Tribunal, which occurred due to the fact that the e-portal of the Income Tax Site was never accessed by the assessee. It is only upon going through the Portal for compilation of the status of the return of income

submitted and the demand etc. this came to the knowledge that the Order has already been passed ex-parte dismissing the appeal of the assessee.

The contents of the affidavit are as under :-



পশ্চিমবঙ্গ পশ্চিম বঙ্গাল WEST BENGAL GOVT. OF INDIA 37AA 406186

Declaration

Before the Notary Public, Kolkata

I, DINESH KUMAR KALANI, son of Girdhar Das Kalani, Hindu, resident of 23/1, Maharshi Devendra Road, 4th Floor, Burrabazar, Kolkata – 700007, holding PAN: AFJPK8429H and Aadhaar No.9129 0456 7220, do hereby state and declare as under:-

1. That I am acting as a Director of the company named and styled Raghav Vanijya Pvt. Ltd.
2. That for the Assessment Year 2012-13, the Assessing Officer has reopened the assessment with the approval of the competent authority and issued a Notice u/s 148 of the Act after recording reasons for the same.

REKHA TEWARI
NOTARY
Regn. No.- 10288/13
C.M.'s Court
Kolkata - 700 001

RAGHAV VANIJYA PVT. LTD.

Dinesh Kumar Kalani
Director/Authorised Signatory

28 MAR 2025

: 2 :

3. That no return of income was submitted in compliance to Notice u/s 148 of the Act. Not only this, even 142(1) Notices also could not be complied with. The non-compliance was due to non-access of the email box of the Income Tax Portal which at the time of filing of the return was mentioned as pawankabra.ca@gmail.com whereas at present the same is g.kalani@rediffmail.com.
4. That an assessment was framed u/s 147 r.w.s. 144 r.w.s. 144B of the Act on 14.12.2019 on a total income of Rs.76,00,450/-.
5. That an appeal was preferred u/s 246A of the Act before the CIT (A), NFAC.
6. That the Ld. CIT (A) vide Order dated 09.08.2023 has passed an Order ex-parte, since the defects mentioned in the Notice in respect of Appeal Memo submitted in Form 35 was not removed/rectified, rejecting the Grounds of Appeal taken and dismissing the appeal.
7. That there had been an inordinate delay in submission of the appeal before the Hon'ble ITAT against the order of the Ld. CIT(A) by 533 days, if proceeded on the basis of the date of Order, which occurred due to the fact that the e-portal of the Income Tax Site was never accessed. It is only upon going through the Portal for compilation of the status of the return of income submitted and the demand etc. this came to the knowledge that the Order has already been passed ex-parte dismissing the appeal.
8. That the Ld. CIT (A) as well as the A.O. ought to have served the Notices in the manner prescribed u/s 282 of the Income Tax Act and having not done so the failure in complying the Notices have occurred.

REKHA TEWARI
NOTARY
 Regn. No.- 10288/13
 C.M.M' s. Court
 Kolkata - 700 001

RAGHAV VANIJYA PVT. LTD.

Dipshy Kuma Katar
 Director/Authorised Signatory

28 MAR 2025



: 3 :

PRAYER

It is the prayer of the appellant that the delay being neither intentional nor willful and also the fact that the appellant would not and/or have gained in delayed submission of the appeal the delay may kindly be condoned as is provided u/s 253(4) of the Act and for which the appellant as in duty shall ever pray.

The above statements are true to the best of my knowledge & belief.

Declared this the day of March, 2025.

RAGHAV VANIJYA PVT. LTD.

Sirish Kumar Kaler
Director/Authorised Signatory

Identified by me
Narayan Ch. Saha
Advocate
CJM Court, Kolkata-1
Enrollment No. WB/305/1989

SOLEMNLY AFFIRMED AND DECLARED
BEFORE ME ON IDENTIFICATION

REKHA TEWARI
NOTARY

REKHA TEWARI
NOTARY
Regn. No.- 10288/13
C.M.M' s. Court
Kolkata - 700 001

28 MAR 2025

3. It was submitted by the Id. AR that the delay was not intentional and, therefore, the same may kindly be condoned and appeal of the assessee may kindly be admitted for hearing.
4. Considering the submissions of the Id.AR and looking to the facts of the case, we condone the delay of 518 days and appeal of the assessee is admitted for hearing.
5. At the outset, Id.AR before us submitted that the due to some inevitable circumstances, the assessee could not provide the details as

called for by the Id.CIT(A) during the course of appellate proceedings. Accordingly, the Id.AR prayed that assessee may be given one more opportunity to file the relevant documents to substantiate its case before the Id.CIT(A). It has also been prayed by the Id.AR that the assessee may be permitted to file revised grounds of appeal before the Id.CIT(A) and Id.CIT(A) may kindly be directed to consider the same.

6. On the other hand, Id. Sr.DR vehemently supported the orders of the lower authorities and submitted that the assessee was unable to substantiate its case before either of the authorities below. Therefore, Id.Sr.DR prayed that orders of the authorities below deserve to be upheld.

7. Upon hearing the submissions of counsel for the respective parties and perusing the facts of the case and submission made by the Id. AR, we find that the Id. CIT(A) in para 6 of its order mentioned that the assessee could not rectify the defects as mentioned by the Id. CIT(A) resulting into dismissal of the appeal filed by the assessee for which the assessee could not provide the relevant documentary evidence before the Id. CIT(A). However, the Id. AR during the course of hearing requested for one more opportunity to prove its case by submitting relevant documents before the CIT(A) along with revised grounds of appeal. Therefore, in the interest of justice, we restore the issues in this appeal to the file of Id.CIT(A) for readjudication afresh after providing sufficient opportunity of being heard to the assessee. The assessee is directed to file revised grounds of appeal and the Id. CIT(A) is also directed to consider the same. The assessee is also directed to produce all the relevant documents to substantiate its case

and cooperate in the readjudication proceedings before the Id. CIT(A), positively.

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

Order pronounced in the open court on 04 /09/2025.

Sd/-
(RAJESH KUMAR)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-
(PRADIP KUMAR CHOUBEY)

न्यायिक सदस्य / JUDICIAL MEMBER

कोलकाता Kolkata; दिनांक Dated 04 /09/2025

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