

**IN THE INCOME TAX APPELLATE TRIBUNAL “C ” BENCH: KOLKATA**

[Before Shri Mahavir Singh, JM & Shri M. Balaganesh, AM]

**I.T.A No.1879/Kol/2012**  
**Assessment Year: 2007-08**

Late Amir Ahmed, Legal heir Irfan Ahmed  
(PAN: ACRPA1997M)

(Appellant)

Vs. Income-tax Officer, Wd-37(3), Kolkata

(Respondent)

Date of hearing: 24.02.2016

Date of pronouncement: 24.02.2016

For the Appellant: N o n e

For the Respondent: Shri Amitava Bhattacharyya, Sr. DR

**ORDER**

**Per Shri Mahavir Singh, JM:**

This appeal by assessee is arising out of order of CIT(A)-XXIV, Kolkata vide Appeal No. 928/CIT(A)-XXIV/37(3)/11-12 dated 28.09.2012. Assessment was framed by ITO, Ward-37(3), Kolkata u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) for Assessment Year 2007-08 vide his order dated 29.12.2009.

2. At the time of hearing we find that the CIT(A) dismissed the appeal of assessee by observing as under:

*“In the present case, the assessment order u/s. 143(3) has been passed on 29.12.2009 and the assessment order u/s. 143(3) & demand Notice dated 29.12.2009 were served on 31.12.2009. The appeal has been filed on 14.09.2011 after 1 year 8 months and 13 days. The appellant has not furnished any petition for the condonation of delay. I am of the view that the delay of 1 year 8 months and 13 days cannot be condoned. In view of it, the appeal filed by the appellant in the instant case is dismissed.”*

3. It means that the CIT(A) has not condoned the delay of 1 year 8 months and 13 days as assessee did not file any condonation petition. We, in the interest of natural justice and fair play set aside the order of CIT(A) and restore the matter to his file to allow one more opportunity to the assessee to file condonation petition and then decide the matter. Accordingly, this appeal of assessee is allowed for statistical purposes.

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

Order pronounced in the open court.

Sd/-  
(M. Balaganesh)  
Accountant Member

Sd/-  
(Mahavir Singh)  
Judicial Member

Dated : 24<sup>th</sup> February, 2016

Copy of the order forwarded to:

1. Appellant – Late Amir Ahmed, L/H Irfan Ahmed, 22/2, C. N. Roy Road, Kolkata-39.
2. Respondent – ITO, Ward-37(3), Kolkata.
3. CIT(A), , Kolkata
4. CIT, , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.