

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "H" NEW DELHI

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

AND

Dr. B.R.R. KUMAR, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A No. 1751/Del/2020  
निर्धारणवर्ष/Assessment Year : 2013-14

Shri Vinod Bansal, 23, Siris Road, DLF Phase-3, Sector : 24, Gurgaon, Haryana - 122 010.	<u>बनाम</u> Vs.	ACIT, Circle : 35 (1), New Delhi.
PAN No. ADFPB5662F		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारितकीओरसे / Assessee by :	Shri Sahil Sharma, Adv.; & Shri Saurabh Nandi, Adv.;
राजस्वकीओरसे / Department by	Shri Sumit Kumar Verma, Sr. D. R.;

सुनवाईकीतारीख/ Date of hearing :	05.01.2023
उद्घोषणाकीतारीख/Pronouncement on :	24.02.2023

आदेश / ORDER

PER C. N. PRASAD, J.M.

1. This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-17 [hereinafter

referred to CIT (Appeals)], New Delhi, dated 10.10.2019. for the Assessment Year 2013-14.

2. The assessee has raised the following substantive grounds of appeal:-

“1. That on the facts and circumstances of the case and in law, the order dated 29.03.2016 passed u/s.143(3) of the Income Tax Act, 1961 ("Act") by the ACIT Circle-35(1), Delhi ("AO") assessing the total income at Rs.1,44,48,930/- as against the returned income of Rs.15,53,140/-, thereby raising a demand of Rs.53,82,010/-, upheld vide order dated 10.10.2019 of the Commissioner of Income Tax (Appeals)-17, New Delhi ["Ld. CIT(A)"] is bad in law.

2. That on the facts and circumstances of the case, the appellant was not in a position to attend the proceedings before the Ld. CIT(A) resulting in disposal of the appeal as not pursued.

3. The Ld. CIT(A) erred in not considering the revised return and upholding the addition of Rs.1,28,95,785/- made by the AO.

4. The authorities below erred in holding that the appellant was required to get his accounts audited under Income-tax Act.”

3. This appeal is filed by the assessee with delay of 306 days and the delay was explained by way of petition for condonation of delay supported with the affidavit by the assessee. The reason for delay is stated to be that the assessee was taken into custody and sent to Central Jail, Tihar from 10.02.2019 till 15.05.2020 and the ex-parte order of the ld. CIT (Appeals) was up-loaded on the IT portal on 22.10.2019. It was further stated that the assessee was released from prison during the tenure when the entire country was in

lock-down due to Covid 19 and the appellant was not aware of the order of the ld. CIT (Appeals). It is stated that assessee came to know about the order of the ld. CIT (Appeals) only in the month of September, 2020 when he consulted the Chartered Accountant and on becoming aware of the order of the ld. CIT (Appeals) the assessee took necessary steps to file appeal and ultimately he could file the appeal on 24.10.2020 before the Tribunal. Therefore, the ld. Counsel for the assessee submits that assessee was prevented with reasonable cause in filing the appeal before the Tribunal and there is no willful default by the assessee in filing the appeal.

4. On hearing both the sides, we observe that there is reasonable cause in not filing the appeal in time as the assessee was earlier in prison for almost a year and he was released during the mid of the pandemic Covid-19 i.e. May, 2020 and there is no willful default in delay in filing the appeal before the Tribunal. The delay in filing the appeal before the Tribunal is condoned.

5. Coming to merits of the case we observe that the ld. CIT (Appeals) dismissed the appeal of the assessee for non-prosecution and on merits he simply sustained the order of the Assessing Officer without any proper reasoning and the order is very cryptic. Therefore, taking the totality of facts and circumstances into consideration, we are of the considered view that this appeal should go back to the ld. CIT (Appeals) for fresh adjudication after hearing the assessee. Thus, we restore this appeal to the file of the ld. CIT (Appeals) who shall adjudicate the appeal on merits after providing adequate opportunity to the assessee. The assessee

is directed to co-operate with the proceedings without taking un-necessary adjournments. Grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on : 24/02/2023

Sd/-  
( B.R.R. KUMAR )  
ACCOUNTANT MEMBER

Sd/-  
( C. N. PRASAD )  
JUDICIAL MEMBER

Dated : 24/02/2023

*\*MEHTA\**

Copy forwarded to :

1. Appellant;
2. Respondent;
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi.

Date of dictation	20.02.2023
Date on which the typed draft is placed before the dictating member	22.02.2023

Date on which the typed draft is placed before the other member	24.02.2023
Date on which the approved draft comes to the Sr. PS/ PS	24.02.2023
Date on which the fair order is placed before the dictating member for pronouncement	24.02.2023
Date on which the fair order comes back to the Sr. PS/ PS	24.02.2023
Date on which the final order is uploaded on the website	24.02.2023
Date on which the file goes to the Bench Clerk	24.02.2023
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	