

IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH KOLKATA
BEFORE SHRI N.V. VASUDEVAN, JM & DR. A.L.SAINI, AM

आयकर अपील सं./ITA No.2214/Kol/2014

(निर्धारण वर्ष / Assessment Year :2009-10)

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| Emerald Company Ltd As the Bond Company Ltd Merged into emerald Company Ltd. Graphite India Premises, 31 Chowringhee Road, Kolkata-700001 | Vs. | ITO ward 11(1), P-7 Chowringhee square, Kolkata-700069 |
| स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. :AADCE2623D | | |
| (अपीलार्थी /Appellant) | .. | (प्रत्यर्थी / Respondent) |

निर्धारिती की ओर से /Assessee by : Shri P.R. Kothari, FCA

राजस्व की ओर से /Revenue by : Shri Bani Brata Dutt Addl.CIT-DR

सुनवाई की तारीख / **Date of Hearing** : **12/04/2017**

घोषणा की तारीख/**Date of Pronouncement** **26/04/2017**

आदेश / O R D E R

Per Dr. Arjun Lal Saini, AM:

The captioned appeal filed by the Assessee, pertaining to Assessment Year 2009-10, is directed against an order passed by the Id. Commissioner of Income Tax (Appeals) XII Kolkata, in appeal No. 271/XII/11(1)/11-12, dated 14.10.2014, which in turn arises out of an order passed by the Assessing officer under section 143(3) of the Income Tax Act,1961 (hereinafter referred to as the 'Act'), dated 29.11.2011.

2. Brief facts of the case qua the assessee are that the assessee filed its return of income for the assessment year 2009-10 on 22.09.2009 disclosing a total income of Rs.20,02,107/-. The return of income was processed U/s 143(1) of the Act on dated 03.11.2010. Later on, the

assessee's case was selected for scrutiny U/s 143(2) of the Act and Assessing Officer completed the assessment by making various additions.

3. Dissatisfied with the order of the Assessing Officer, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) who has confirmed the addition made by the Assessing Officer, by passing an *ex parte* order. The Id CIT(A) observed that assessee did not attend the hearing and did not file the written submissions therefore, Id CIT(A). As a result, the Id CIT(A) took the view that the assessee did not want to pursue appeal therefore Id CIT(A) passed the *ex parte* order, i.e. without presence of the assessee.

4. Not being satisfied with the order of the Id CIT(A), the assessee is in further appeal before us and has taken the four grounds of appeal. The first ground raised by the assessee is against the *ex-parte* dismissal of appeal by Id CIT(A). Ground No. two, three and four raised by the assessee are on merits, which were not pressed by the assessee, therefore, we do not adjudicate them. **The solitary grievance of the assessee in this appeal is that Id CIT(A) erred in passing the *ex-parte* order without actually considering the subject issues on merit & without providing proper opportunity of hearing.**

5. Id AR for the assessee has submitted that because of ill health the assessee could not attend the office of the Id CIT(A). The Id CIT (A) passed the order in hurry without providing further opportunity of hearing. The Id DR for the Revenue did not object the propositions canvassed by the Id AR of the assessee.

6. We are of the view that rights and duties of the assessee have not been determined by the Id CIT(A), therefore, we remit the case back to the file of the CIT(A) with the direction to adjudicate the issue afresh, on merit after providing adequate opportunity of hearing to the assessee. We also direct the assessee to furnish the documents, information and explanation as required, by the Id CIT(A).

7. In the result, the appeal filed by the assessee, is allowed for statistical purposes.

Order pronounced in the open court on this 26/04/2017.

Sd/-
(N.V. VASUDEVAN)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(DR. A.L.SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

कोलकाता /Kolkata; दिनांक Dated 26/04/2017

प्रकाश मिश्रा/Prakash Mishra,Sr.PS.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- Emerald Company Ltd
2. प्रत्यर्थी / The Respondent.-ITO, Wd-11 (1), Kolkata
3. आयकर आयुक्त(अपील) / The CIT(A), Kolkata.
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY
ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार
(Asstt.
Registrar)

आयकर अपीलीय अधिकरण, कोलकाता / ITAT, Kolkata