

IN THE INCOME TAX APPELLATE TRIBUNAL "D", BENCH KOLKATA

BEFORE SHRI A.T. VARKEY, JM & DR. A.L.SAINI, AM

आयकरअपीलसं./ITA No.193/Kol/2017

(निर्धारणवर्ष / Assessment Year : 2005-06

M/s Rozana Construction & Developer. Ayub Mallick, c/o, Shri Ishak Mallick, Kaikhali Mondalganhi (Biswas Para), P.S.- Baguiati, P.O.- Airport, Kolkata-700052	Vs.	ITO-49(4), Kolkata.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAIFR 2762 E		
(अपीलार्थी/Assessee)	..	(प्रत्यर्थी / Respondent)

निर्धारितीकीओरसे /Assessee by : None

राजस्वकीओरसे /Revenue by : Shri Nicholas Murmu, JCIT

सुनवाईकीतारीख/ Date of Hearing : 14/06/2017

घोषणाकीतारीख/Date of Pronouncement : 07/ 07/2017

**देश / ORDER**

**Per Dr.Arjun Lal Saini, AM:**

The captioned appeal filed by the Assessee, pertaining to assessment year 2005-06, is directed against the order passed by the Id. Commissioner of Income Tax(Appeals)-15, Kolkata, in Appeal No. 182/CIT(A)-15/14-15/Wd-49(4)/Kol, dated 10.03.2016, which in turn arises out of an order passed by the AO u/s

254/263/143(3)254/143(3) of the Income Tax Act 1961, (hereinafter referred to as the 'Act'), dated 12.03.2014.

2. At the outset, the Ld. Counsel for the assessee has submitted before us that the assessee could not get the notice of hearing from the Ld. CIT(A) because there was a change of address i.e. the notice of the Ld. CIT(A) could not be served on the assessee because of change of communication address. The present address of the assessee which is mentioned in Form No. 36 is as under:

M/s Rozana Construction & Developer, c/o Shri IshakMallick, KaikhaliMandalganthi (Biswas Para), P.S.-Baguiati, P.O.-Airport, Kolkata-700052.

Whereas the address mentioned in the order of the Ld. CIT(A) reads as follows:

M/s Rozana Construction & Developer, GH/10, Jyanga, Nabapalluy, Baguiati, Kolkata-700059.

Therefore, because of change in address of communication the assessee could not get the notice of hearing from the Ld. CIT(A) and therefore, the Ld. CIT(A) passed the order ex parte. Therefore, considering the factual position and principle of natural justice, we are of the view that the rights and duties of the assessee were not determined by the Ld. CIT(A), because of the reason, the assessee did not attend hearing and as a result, the Ld. CIT(A) passed the ex

parte order. Therefore, we are of the view that this issue requires to be adjudicated afresh by the Ld. CIT(A), hence, we remand the matter back to the file of the Ld. CIT(A) to adjudicate the issue afresh after giving proper opportunity to the assessee. Therefore, we allow this appeal for statistical purposes.

3. In the result, the appeal filed by the Assessee, is allowed for statistical purposes.

Order pronounced in the open court on this 07/ 07/2017.

**Sd/-**

**(A.T. VARKEY)**

न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**

**(DR. A.L.SAINI)**

लेखा सदस्य / ACCOUNTANT MEMBER

**कोलकाता/Kolkata; दिनांक Dated 07/ 07/2017**

SB, Sr.PS.

**देशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Assessee- Rozana Construction & Developer
2. प्रत्यर्थी/ The Respondent.- ITO, Ward-49(4), Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata
6. गार्डफाईल / Guard file.

सत्यापितप्रति //True Copy//

By Order

**Senior Private Secretary  
Head of Office/D.D.O,  
I.T.A.T., Kolkata Benches,  
Kolkata**