

आयकर अपीलीय अधीकरण, न्यायपीठ – “D” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “D” KOLKATA

Before **Shri Waseem Ahmed, Accountant Member** and
Shri S.S.Viswanethra Ravi, Judicial Member

ITA No.925/Kol/2016
Assessment Year:2012-13

M/s Corporate Cement Pvt. Ltd., the Knowledge Hub, Plot DN – 23, 5 th Floor, Sector-V, Salt Lake City, Kol-91 [PAN No.AACCV 4132 B]	बनाम/ V/s.	ITO Ward-2)2), P-7, Chowringhee Square, Ayakar Bhawan, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri G. Hangshing, CIT-DR
सुनवाई की तारीख/Date of Hearing	24-10-2017
घोषणा की तारीख/Date of Pronouncement	26-10-2017

आदेश /ORDER

PER Waseem Ahmed, Accountant Member:-

This is an appeal filed by the assessee is against the order of Commissioner of Income Tax (Appeals)-1, Kolkata for the assessment year 2012-13, in the matter of order passed u/s 143(3) of the Income Tax Act, 1961 vide his order dated 11.03.2016.

2. At the time of hearing, none appeared on behalf of assessee nor filed any application for adjournment. However, we decided to dispose of the appeal after considering the materials available on records and hearing the ld. DR.

3. At the outset, it was observed from the appellate order that the case was fixed for hearing on 05.02.2016 but assessee failed to attend the same. So it was further adjourned to 09.03.2016 but none appeared on behalf of assessee before Ld. CIT(A). Therefore, the appeal was decided by Ld. CIT(A) as *ex parte* on 11.03.2016. Against the impugned *ex parte* order of Ld. CIT(A) assessee filed an appeal before us and

inter-alia submitted in grounds of appeal that reasonable opportunity was not provided.

4. On perusal of appellate order, we find that Ld. CIT(A) affirmed the action of Assessing Officer *ex parte* without mentioning any reason for confirming the same on merits. The provisions of Section 250(6) of the Act require the Commissioner (Appeal) to dispose of the appeal in writing with reasoning. But we find from the impugned order of Ld. CIT(A) who confirmed the order of AO without deciding the same on merit. We also observe in the interest of justice and fair play that Ld. CIT(A) should have given another opportunity to the assessee to appear before him to explain its points of contentions. Therefore, in this view of the matter, we are inclined to remit the matter back to the file of Ld. CIT(A) with the direction to decide the issue raised by assessee on merit after giving reasonable opportunity of being heard to assessee. It is needless to say that the assessee should co-operate in the appellate proceeding and should appear before the Ld. CIT(A) on the dates of hearing. Hence, this ground of assessee's appeal stands allowed for statistical purpose.

5. **In the result, assessee's appeal stands allowed for statistical purpose.**

Order pronounced in open court on 26/10/2017

Sd/-
(न्यायिक सदस्य)
(S.S.Viswanethra Ravi)
Judicial Member

Sd/-
(लेखा सदस्य)
(Waseem Ahmed)
Accountant Member

*Dkp-Sr.PS

दिनांक:- 26/10/2017 कोलकाता / Kolkata

आदेश की प्रतिलिपि अद्येषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-M/s Corporate Cement Pvt. Ltd.,The Knowledge Hub, Plot DN-23, 5th Fl, Sector-V, Salt Lake City,
2. प्रत्यर्थी/Respondent-ITO Ward-2(2), P-7, Chowringhee Square, Ayakar Bhawan, Kolkata-69
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary,
Head of Office/DDO
आयकर अपीलीय अधिकरण, कोलकाता