

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

**BEFORE SHRI S. S. VISWANETHRA RAVI, JM &DR. A.L.SAINI, AM**

आयकरअपीलसं./ITA No.651 & 652/Kol/2016

(निर्धारणवर्ष / Assessment Year: 2011-12)

<b>S.H. Mumtazuddin Times (P) Ltd.</b>	<b>Vs.</b>	<b>DCIT, Cir-5(1), Kolkata.</b>
4, Radha Bazar Street, Kolkata – 700 001.		AaykarBhawan, P-7, Chowringhee Square, Kolkata – 700 069.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. :AAKCS 6915 K		
<b>(APPELLANT)</b>	<b>..</b>	<b>(RESPONDENT)</b>

Appellantby

: Shri Manish Tiwari, Advocate

Respondent by

:Shri Arindam Bhattacharjee, Addl. CIT

सुनवाईकीतारीख/ **Date of Hearing**

**: 16/10/2017**

घोषणाकीतारीख/**Date of Pronouncement**

**: 29/11/2017**

**आदेश / ORDER**

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

The captioned two appeals filed by the assessee, pertaining to Assessment Year 2011-12, are directed against the order passed by the Id Commissioner of Income Tax (Appeals)-2,Kolkata, which in turn arise out of assessment orders passed by the Assessing Officer u/s 143(3)/271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act').

2. Since, these two appeals relate to the same assessee, same Assessment Year, and identical issues are involved, therefore, these have been clubbed and heard together and a consolidated order is being passed for the same of convenience and brevity.

3. At the outset, itself the Ld.AR pointed out that the impugned order is an ex parte order and therefore, the assessee could not plead his case before the Ld. CIT(A), he prayed that the matter may be remanded back to the file of the CIT(A) for fresh adjudication. The Ld. DR did not have any objection if the

matter is remitted before the Ld. CIT(A). The Id AR submitted before us that assessee`s appeal was posted for hearing on 28/12/2015, and on the said date the assessee filed an application for adjournment for three weeks and after that Id CIT(A) did not give any opportunity to the assessee. The Id counsel stated that since the assessee took the adjournment therefore,one more final opportunity should be given by the Id. CIT(A) but in fact he did not give any final opportunity, which is against the principle of natural justice.Since the impugned order is an ex-parte order therefore,we do not wish to make any comments on the merits of the grounds raised by the assessee.

4. Since, the impugned order is an ex parte order, the assessee could not plead his case before the Ld. CIT(A). Therefore, we are inclined to set aside the impugned orders to the file of CIT(A) and we direct the Ld. CIT(A) to pass a speaking order after hearing the assessee and giving adequate opportunity to assessee. Therefore, we allow both the appeals of the assessee for statistical purposes.

5. In the result, the appeals filed by the assessee (in ITA No.651/Kol/2016 & 652/Kol/2016), are allowed for statistical purposes.

Order pronounced in the open court on this **29/11/2017**.

**Sd/-** (S. S. VISWANETHRA RAVI) **Sd/-** (DR. A.L.SAINI)  
**न्यायिक सदस्य / JUDICIAL MEMBER** **लेखा सदस्य / ACCOUNTANT MEMBER**

**कोलकाता /Kolkata; दिनांक Dated 29/11/2017**

RS,SPS

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

1. अपीलार्थी/ The Appellant – S.H. Mumtazuddin Times (P) Ltd.
2. प्रत्यर्थी/ The Respondent-DCIT, Cir-5(1), 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.