

IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'C' KOLKATA

[Before Hon'ble Shri N.V.Vasudevan, JM & Shri Waseem Ahmed, AM]

ITA No.1022/Kol/2016
Assessment Year : 2008-09

M/s Phalguni Merchants Pvt.Ltd. -versus-
Kolkata
(PAN:AAECP 1468 L)
(Appellant)

I.T.O., Ward-5(3)
Kolkata
(Respondent)

For the Appellant: Shri Manish Tiwari, FCA
For the Respondent: Shri S.Dasgupta, Addl. CIT(DR)

Date of Hearing : 24.01.2018.

Date of Pronouncement : 02.02.2018.

ORDER

PER N.V.VASUDEVAN, JM:

This is an appeal by the Assessee against the order dated 25.02.2016 of C.I.T.(A)-6, Kolkata relating to A.Y.2008-09.

2. We will take up for consideration ground no.1 raised by the assessee before the tribunal.

3. The Assessee is a company engaged in the business of dealing in shares and making investments. An order of assessment u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (Act) dated 24.03.2014 was passed by the AO. Aggrieved by certain additions made by the AO in the aforesaid order of assessment the assessee preferred appeal before the CIT(A). The original appeal was pending before CIT(A)-2, Kolkata. CIT(A)-2, Kolkata issued a notice dated 20.08.2015 fixing the hearing of the appeal of the assessee on 09.11.2015. It appears that nobody appeared on behalf of the assessee. Order of the CIT(A) is silent as to whether this notice of hearing was served on the assessee. Thereafter the appeal was transferred to the file of CIT(A)-6, Kolkata. The CIT(A) issued a notice dated 18.01.2016 fixing the appeal for hearing on 15.02.2016. This notice was served on the assessee on 22.01.2016 but none appeared on 15.02.2016. The CIT(A) therefore proceeded to decide the appeal exparte and found no grounds to interfere with the order of CIT(A). It was submitted by the Id. Counsel

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for the assessee that the assessee could not appear on 15.02.2016 because authorised representative had some personal inconvenience. The request of the Id. Counsel for the assessee was that the order of the CIT(A) should be set aside and the issue raised by the assessee before the CIT(A) should be directed to decide on merits. The Id. DR opposed the prayer of the assessee as above.

4. We have given a very careful consideration to the rival submissions. In our view after the change of the jurisdiction from CIT(A)-2, Kolkata to CIT(A)-6, Kolkata there was only one opportunity afforded to the assessee. It has been explained that the failure of the authorised representative to appear on the said date was due to his personal inconvenience. We are of the view that in the given facts and circumstances of the case, the plea of the assessee for setting aside the order of the CIT(A) for affording opportunity of being heard should be accepted. We accordingly set aside the order of CIT(A) and direct the CIT(A) to decide various grounds of appeal raised by the assessee before CIT(A) on merits after affording opportunity of being heard to the assessee.

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

Order pronounced in the open Court on 02.02.2018.

Sd/-

[Waseem Ahmed]
Accountant Member

Sd/-

[N.V.Vasudevan]
Judicial Member

Dated : 02.02.2018.

[RG Sr.PS]

Copy of the order forwarded to:

- 1.M/s.Phalguni Merchants Pvt. Ltd., C/o S.S.Lohia & Co., Room No.711, 7th floor, Narayani Building, 27, Brabourne Road, Kolkata-700001.
2. I.T.O., Ward-5(3), Kolkata.
3. C.I.T.(A)-6, Kolkata. 4. C.I.T.-2, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True Copy

By order,

Senior Private Secretary
Head of Office/D.D.O., ITAT, Kolkata Benches

