

आयकर अपीलिय अधीकरण, न्यायपीठ – “B” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “B” KOLKATA*

Before **Shri N.V.Vasudevan, Judicial Member** and
Shri Waseem Ahmed, Accountant Member

ITA No.1449/Kol/2016
Assessment Year :2008-09

Countryman Telefilms Pvt. Ltd., Bentinck Chambers RoomNo.201, 2 nd Floor, 37A, Bentinck Street, Kolkata-69 [PAN No. AABCC 1078 J]	V/s.	Income Tax Officer, Ward-3(2), P-7, Chowringhee Square, Aayakar Bhawan, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri Ankit Jalan, AR
प्रत्यर्थी की ओर से/By Respondent	Shri Arindam Bhattacharjee, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	05-02-2018
घोषणा की तारीख/Date of Pronouncement	21-02-2018

आदेश /O R D E R

PER Waseem Ahmed, Accountant Member:-

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-23, Kolkata dated 02.03.2016. Assessment was framed by ITO Ward-3(2), Kolkata u/s 144 of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) vide his order dated 27.12.2010 for assessment year 2008-09.

Shri Ankit Jalan, Ld. Authorized Representative appeared on behalf of assessee and Shri Arindam Bhattacharjee, Ld. Departmental Representative appeared on behalf of Revenue.

3. At the outset, it was observed that the Ld. CIT(A) decided the appeal *ex parte* vide order dated 02.03.2016 due to non-appearance of the assessee or his authorized representative. Against the impugned *ex parte* order of Ld. CIT(A) assessee filed an appeal before us and pleaded that the impugned order by the Id. CIT(A) has been passed without giving opportunity to the assessee. The Id. AR before us prayed to restore the matter to the file of Id. CIT(A) for fresh adjudication in accordance with the law.

On the other hand the Id. DR has agreed with the submission of Ld. AR for the assessee if the matter is remanded to the Id. CIT(A) for fresh adjudication as per the provision of law.

4. Heard both the parties and perused the materials available on record. 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. We also note that the assessee sought adjournment on 19.1.2016 on medical ground which was granted and the matter was adjourned to 9.2.2016 as final opportunity. But on the scheduled date i.e. 9.2.2016 of hearing the assessee failed to appear as well as no adjournment petition was filed by the assessee. However from the above it is transpired that assessee was not medically fit. The illness of the assessee was supported with medical certificate along with the adjournment petition filed by the assessee on 19.1.2016 to the Id. CIT(A).

Thus in such circumstances we find 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 his 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 attend the

hearing as and when required by Ld. CIT(A). Hence, this ground of assessee's appeal stands allowed for statistical purpose.

5. In the result, for statistical purpose, appeal of assessee is treated as allowed.

Order pronounced in the open court 21/02/2018

Sd/-

(न्यायिक सदस्य)

(N.V.Vasudevan)

(Judicial Member)

Kolkata,

*Dkp, Sr.P.S

दिनांक:- 21/02/2018 कोलकाता ।

Sd/-

(लेखा सदस्य)

(Waseem Ahmed)

(Accountant Member)

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

1. अपीलार्थी/Appellant-Countryman Telefilms Pvt. Ltd., Bentinck Chambers Room No.201
2nd Floor, 37A, Bentinck Street, Kolkata-69
2. प्रत्यर्थी/Respondent-ITO, Ward-3(2), P-7, Chowringhee Square, Aayakar Bhawan, Kol-69
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
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 ।