

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.456/Kol/2017**  
Assessment Year:2012-13

M/s Ruchi Mercandise Pvt. Ltd., 5/1, Clive Row, 2 <sup>nd</sup> Floor, Kolkta-700001 [PAN No.AABCR 2159 K]	<b>बनाम</b> / <b>V/s.</b>	Income Tax Officer, Ward-4(1), Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri Ankit Jalan, AR
प्रत्यर्थी की ओर से/By Respondent	Shri S. Dasgupta, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	21-03-2018
घोषणा की तारीख/Date of Pronouncement	23-03-2018

**आदेश /O R D E R**

**PER Waseem Ahmed, Accountant Member:-**

This appeal by the assessee for assessment year 2012-13 is directed against the order of Commissioner of Income Tax (Appeals)-2, Kolkata dated 06.12.2016.

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

2. At the outset, it was observed that the Ld. CIT(A) decided the appeal *ex parte* vide order dated 06.12.2016 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 ld. CIT(A) has been passed without giving opportunity to the assessee. The ld. AR before us prayed to restore the matter to the file of ld. CIT(A) for fresh adjudication in accordance with the law.

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

3. 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.

3.1. We also note that the assessee sought adjournment on 03.10.2016 but on the scheduled date i.e. 29.11.2016 of hearing the assessee failed to appear as well as no adjournment petition was filed by the assessee, hence, Ld. CIT(A) passed *ex parte* order. 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.

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

Order pronounced in open court on 23/03/2018

Sd/-

(न्यायिक सदस्य)

(S.S.Viswanethra Ravi)

Judicial Member

\*Dkp, Sr.P.S

Sd/-

(लेखा सदस्य)

(Waseem Ahmed)

Accountant Member

दिनांक:- 23/03/2018 कोलकाता / Kolkata

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

1. अपीलार्थी/Appellant-M/s Ruchi MercandisePvt.Ltd., 5/1, Clive Row, 2<sup>nd</sup> Fl, Kol-001
2. प्रत्यर्थी/Respondent-ITO, Ward-4(1), Aayakar Bhawan,P-7, Chowringhee Sq.Kol-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