

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

**BEFORE SHRI A. T. VARKEY, JM & DR. A.L.SAINI, AM**

**आयकरअपीलसं./ITA No.2419 & 2420/Kol/2016**

**(निर्धारणवर्ष / Assessment Years: 2012-13 & 2013-14)**

<b>Dharampal Sharma</b> Shankar Soorkhy Mill, 18, B.T. Road, Khardah, P.O.Titagarh, Borapatty, Kolkata – 700 119.	<b>Vs.</b>	<b>I.T.O, Ward- 34(3), Kolkata</b> Aayakar Bhawan, Poorba, 110, Shantipally, Kolkata – 700 107.
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No. :AGXPS 7758 G</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by : Shri Brijesh Kumar Singh, Advocate

Respondent by : Shri S. Dasgupta, Addl. CIT (DR)

सुनवाईकीतारीख/ Date of Hearing : 13/03/2018

घोषणाकीतारीख/Date of Pronouncement : 23/03/2018

**आदेश / ORDER**

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

These captioned appeals filed by the assessee, pertaining to Assessment Years 2012-13 & 2013-14, are directed against orders passed by the Commissioner of Income Tax(Appeals)-10, Kolkata, which in turn arise out of orders passed by the Assessing Officer under section 143(3) of the I.T. Act, 1961 (hereinafter referred to as the 'Act').

2. At the outset itself, the Id. Counsel for the assessee has pointed out that he could not get the notice of hearing from the Id. CIT(A) because of change in the address of communication and, therefore, he could not appear before the Id. CIT(A) to plead his case.

3. We note that new address given by the assessee in Form No.36 is as follows:

“Shankar Soorkhy Mill, 18, B.T. Road, Khardah, P.O.Titagarh, Borapatty, Kolkata – 700 119.”

We note that the old address given by the assessee to the Id. CIT(A) reads as under:

“Shri Dharampal Sharma, M/s Scotchy International, 37, N.S. Road, Kolkata – 700 001.”

We note that both the addresses are different because the assessee has shifted his house on the new address mentioned in term no.36. The assessee also submitted before us an affidavit to prove his bona fide, the relevant paras of the said affidavit are given below:

*“3. That I had shifted to Shankar Soordhy Mill, 18, B.T. Road, Khardah, P.O-Titagarh, Borapatty, Kolkata – 700119.*

*4. That the CIT(A)-10 issued the notices for hearing at my old address in the absence of knowledge of change of address which I could not intimate him due to inadvertence.”*

4. We have given a careful consideration to the rival submissions, perused the materials available on record, we note that because of change of address of communication, the assessee could not get the notice of hearing from the Id. CIT(A) and as a result, he could not plead his case before the Id. CIT(A). Hence, keeping in mind the principles of natural justice and fair play, we deem it fit and appropriate to remit the issue back to the file of the Id. CIT(A) to adjudicate the issue afresh after giving an opportunity of hearing to the assessee. The Id. DR for the Revenue did not object if the case is remitted back to the file of the Id. CIT(A) for fresh adjudication. However, the Id. DR requested the Bench that assessee should participate in the appellate proceedings. Therefore, appropriate instructions should be given to him.

4. We set aside both the addresses of Id. CIT(A) and restore the matter to Id. CIT(A) to adjudicate the same afresh and pass a speaking order. We also direct the assessee to appear before the Id. CIT(A) on 23.04.2018, diligently and participate in the appellate proceedings and peruse the appeal in accordance to law.

5. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order is pronounced in the open court on 23/03/2018.

**Sd/-**  
**(A. T. VARKEY)**

न्यायिक सदस्य / JUDICIAL MEMBER

कोलकाता /Kolkata;

दिनांक Dated 23/03/2018

(RS, SPS)

**Sd/-**  
**(A .L. SAINI)**

लेखा सदस्य / ACCOUNTANT MEMBER

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

1. अपीलार्थी/ The Appellant –Dharampal Sharma
2. प्रत्यर्थी/ The Respondent- I.T.O, Ward- 34(3), Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A),
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.