

IN THE INCOME TAX APPELLATE TRIBUNAL "A", BENCH KOLKATA

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

आयकरअपीलसं./ITA No.2335/Kol/2016

(निर्धारणवर्ष / Assessment Year: 2012-13)

Giriraj Commosales Pvt. Ltd. 13, B.B. Ganguly Street, 2 nd Floor, Room No.207, Kolkata – 700 012.	Vs.	I.T.O., Ward-1(1), Kolkata Aayakar Bhawan, P-7, Chowringhee Square, Kolkata – 700 069.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. :AAECG 1400 B		
(Appellant)	..	(Respondent)

Appellant by :Shri Monish Tiwari, FCA
Respondent by :Shri G. Hangshing, CIT(DR)

सुनवाईकीतारीख/ **Date of Hearing** : **11/04/2018**

घोषणाकीतारीख/**Date of Pronouncement** : **20/04/2018**

आदेश / O R D E R

Per Dr. A. L. Saini:

The captioned appeal filed by the assessee, pertaining to Assessment Year 2012-13, is directed against an order passed by the Ld. Commissioner of Income Tax (Appeals)-1, Kolkata in appeal No.196/CIT(A)/W-1(1)//2015-16, dated 10.11.2016, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), dated 26.03.2015.

2. At the outset itself, the Id. counsel for the assessee pointed out that the impugned order is an ex parte order, therefore, the assessee could not plead his case before the Id. CIT(A). The Id. counsel for the assessee also submitted that on the date of hearings fixed by the Id. CIT(A) on 29.09.2016 and 09.11.2016, the counsel for the assessee appeared before the Id. CIT(A) but the Id. CIT(A) was not available in his Office and later on without providing any further opportunity of hearing, passed the ex parte order. Therefore, the Id.

Counsel prayed the Bench that the matter may be remitted back to the file of the Id. CIT(A) for fresh adjudication. The Id. DR for the Revenue, did not have any objection if the matter is remitted back to the file of the Id. CIT(A). However, he wanted that the assessee should appear before the Id. CIT(A) and participate in the appellate proceedings.

3. We note that the assessment was carried out by the Assessing Officer u/s 143(3) of the Act and the impugned order passed by the Id. CIT(A) 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. We note that though in most of the cases, the assessee did not appear before the Id. CIT(A) during the appellate proceedings, and a perusal of the body of the impugned order, it is apparent that it is an ex parte order which has been challenging by the assessee for want of proper opportunity. Since, the impugned order is an ex parte order and the assessee could not plead his case before the Id. CIT(A), therefore, we are inclined to set aside the impugned order with a direction to the assessee to participate in the appellant proceedings. The Id. CIT(A) is directed to pass a speaking order after providing adequate opportunity to the assessee. Therefore, we set aside the order of the Id. CIT(A) and remit the case back to the file of the Id. CIT(A) to adjudicate the issue afresh in accordance with law.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 20/04/2018.

Sd/-
(A. T. VARKEY)

न्यायिक सदस्य / JUDICIAL MEMBER

कोलकाता /Kolkata;

दिनांक Date: 20/04/2018

(RS, SPS)

Sd/-
(A. L. SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant- Giriraj Commosales Pvt. Ltd.
2. प्रत्यर्थी/ The Respondent-I.T.O., Ward-1(1), 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.