

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

[Before Hon'ble Shri Waseem Ahmed, AM & Shri S.S.Viswanethra Ravi, JM]

ITA Nos.39&40/Kol/2017Assessment Year : **2012-13**Years : **2009-10 & 2010-11**

Sanjiv Dua
Kolkata
(PAN: ADVPD 8606 M))
(Appellant)

-versus-

D.C.I.T., Circle-36,
Kolkata

(Respondent)

For the Appellant: Shri Asim Kumar Das, Staff

For the Respondent: Shri Arindam Bhattacharjee, Addl. CIT

Date of Hearing : 03.04.2018.

Date of Pronouncement : 20.04.2018.

ORDER**PER S.S.VISWANETHRA RAVI, JM:**

Being aggrieved by the order dated 29.01.2016 passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act ') passed by the Commissioner of Income Tax (Appeals)-10, Kolkata for A.Y.2009-10 and 2010-11, the instant appeals have been filed by the assessee before us. Since the issues are identical in both the appeals they were heard together and disposed off by a common order for the sake of convenience.

2. At the time of hearing of these appeals, an application has been filed on behalf of the assessee seeking for an adjournment on the ground of serious illness of the Authorised Representative of the assessee. The medical certificate to that effect has also been annexed to the said application.

3. We have gone through the orders passed by CIT(A). We find that notice of hearing was issued to the ld. AR on 16.10.2015 as well as on 26.10.2016. No one represented either in person neither any written submission was offered by the ld. AR. We also find that none appeared on behalf of the revenue before the ld. CIT(A). Thus the order was passed ex parte.

4. On perusal of the order of CIT(A) we find that the ld. CIT(A) confirmed the action of the AO without mentioning any reason for confirming the same on merit. The

provision of section 250(6) of the Act requires the Commissioner of Income Tax (Appeal) to dispose of the appeal in writing with reasoning. We find from the impugned order that the Id. CIT(A) has confirmed the order of the AO without stating the reason on merit. We also find that in the interest of justice and fair play that the CIT(A) should have given opportunity to the assessee to appear before him to explain the issues raised before him. In that view of the matter we are inclined to remit the matter back to the file of CIT(A) with the direction to decide the issue raised by the assessee on merit after giving reasonable and proper opportunity of being heard to the assessee. It is needless to mention that the assessee should cooperate in the appellate proceedings as and when called by the Id. CIT(A). No order need to be passed in respect of the adjournment application preferred before us on behalf of the assessee. In the result this ground of appeal stands allowed for statistical purposes.

5. In the result the appeals by the assessee stand allowed for statistical purposes.

Order pronounced in the Court on 20.04.2018.

Sd/-
[Waseem Ahmed]
Accountant Member

Sd/-
[S.S.Viswanethra Ravi]
Judicial Member

Dated : 20.04.2018.

[RG Sr.PS]

Copy of the order forwarded to:

- 1.Sanjiv Dua, 8, Parsee Church Street, 3rd Floor, Kolkata-700001.
2. D.C.I.T., Circle-36, , Kolkata.
3. C.I.T.(A)- 10, Kolkata
4. C.I.T-12, Kolkata
5. CIT(DR), Kolkata Benches, Kolkata.

True Copy

By order,

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

