

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

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

ITA No.544/Kol/2017
Assessment Year : 2012-13

Salasar Exim Limited
Kolkata
(PAN: AAICS 8273 N)
(Appellant)

-versus-

I.T.O., Ward-3 (2)
Kolkata
(Respondent)

For the Appellant: Shri Somnath Ghosh, Advocate
For the Respondent: Shri Arindam Bhattacharjee, Addl. CIT

Date of Hearing : 05.04.2018.

Date of Pronouncement : 25/04/2018

ORDER

PER WASEEM AHMED, AM:

This appeal by the assessee for assessment year 2012-13 is directed against the order of Commissioner of Income Tax (Appeals)-1, Kolkata dated 31.01.2017.

2. We have heard both the counsels appearing for both the parties and perused the documents filed before us. We have gone through the *ex parte* order passed by CIT(A). It appears from the said order that the date of hearing was fixed on 15.12.2016 but a letter was filed by the AR requesting for an adjournment. The case was adjourned to 06.01.2017. Again, the AR for assessee sought for an adjournment and the case was further fixed for hearing for 24.01.2017. But on that day neither anybody appeared nor application for adjournment on behalf of the assessee was made. It appeared from the impugned order that none appeared on behalf of the assessee as well as on behalf of the revenue before CIT(A) while disposing of this appeal.

3. On perusal of the order of CIT(A) we find that the Id. CIT(A) confirmed the action of the AO without mentioning any reason for confirming the same on merit. We also find the assessment order was passed by the AO *ex-parte* under section 144 of the Act. Though the opportunity of hearing was extended by the AO for personal appearance or producing share applicants for cross examination but the assessee did

not make any compliance for the same. Thus, the AO passed his order on the basis of the very few documents placed before him and without any proper assistance from assessee. Therefore, we find that in the interest of justice and fair play the assessee should be given one more opportunity to appear before the AO to explain its points of contentions. In that view of the matter, we are inclined to set aside the order of Ld. CIT and remit the matter back to the file of AO with the direction to decide the issue raised by the assessee on merit *de novo* after giving reasonable and proper opportunity of being heard to the assessee. It is needless to mention that the assessee should cooperate in the assessment proceedings as and when called by the ld. AO. Hence, this ground of appeal of the assessee stands allowed for statistical purposes.

4. In the result, for statistical purposes, the appeal of assessee stands allowed in terms of above.

Order pronounced in the Court on 25/04/2018

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

Sd/-
[Waseem Ahmed]
Accountant Member

Dated : 25/04/2018

[RG Sr.PS]

Copy of the order forwarded to:

- 1.Salasar Exim Limited, C/o S.N.Ghosh & Associates, Advocates, "SEBEN BROTHERS' LODGE' P.O.Buroshibtala, P.S.Chinsurah, Dist. Hooghly. Pin-712105.
- 2 I.T.O., Ward-3 (2), Kolkata.
3. C.I.T.(A)- 1, Kolkata 4. C.I.T-1, Kolkata
5. CIT(DR), Kolkata Benches, Kolkata.

By order,

/True Copy/

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