

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

Before: **Shri P.M. Jagtap, Accountant Member** and
Shri S.S. Viswanethra Ravi, Judicial Member

I.T.A No. 2199/Kol/2010

A.Y: 2007-08

D.C.I.T, Circle-3, Kolkata

Vs.

**M/s. Kamal Forging
Pvt. Ltd.**

PAN:AABCK8956B

[Appellant]

[Respondent]

For the Appellant

: Shri P.K. Srihari, CIT, Id. Sr.DR

For the Respondent

: Shri None appeared

Date of hearing : 31-07-2018

Date of pronouncement: 12-09-2018

ORDER

Shri S.S. Viswanethra Ravi, JM:

This appeal by the Revenue is directed against the order of the Commissioner of Income Tax (Appeals),1, Kolkata dt. 31-08-2010 for the A.Y 2007-08.

2. When the matter was called for hearing, neither the assessee nor any authorized representative on behalf of assessee appeared nor any application filed seeking for adjournment. Therefore, we set ex parte of assessee and proceed to hear the Id.DR, dispose of the appeal by perusing the material available on record. The contention of the Id. DR was that the CIT-A deleted the impugned additions made by the AO only on the ground, that there was no opportunity to assessee to cross examine the party/person, basing on which statement the AO made the impugned addition and referred to page-9 of the CIT-A order and as such urged to remand the matter to the file of AO in order to give an opportunity to assessee for the same. Relevant portion of order of CIT-A is reproduced herein below:-

" In the present case, all the disallowances were made on the assessee company on the basis of statements and explanations offered by officials from M/s.

Vikas Iron & Steel Co. Ltd without cross examination. The validity of such explanations from the assessee company. Thus clearly going against the very basic concepts of equity and natural justice.

This fact goes to the heard of the argument. It renders the assessment biased and one sided and precludes truth from emerging out of the conflicting view obfuscating the issue.

In the circumstances and as narrated above, the addition cannot stand in view of my observation above. This Ground succeeds. "

3. In view of above, taking into consideration the submissions of the Id. DR, facts and circumstances of the case, and in the interest of justice, we deem it fit and proper to remand the matter to the file of AO to afford an opportunity to assessee for cross examination of such person/party and to pass an order as per law, after giving the assessee adequate opportunity of hearing to assessee. The assessee shall be at liberty to file requisite evidences/ explanations to substantiate its claim/contention. Grounds raised by the revenue are allowed for statistical purpose.

4. In the result, the appeal of revenue is allowed for statistical purpose.

Order pronounced in the open court on 12-09-2018

Sd/-
P.M. Jagtap
Accountant Member

Sd/-
S.S. Viswanethra Ravi
Judicial Member

Dated : 12-09-2018

PP(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant/Revenue : Deputy Commissioner of Income Tax, Circle-3, Dwarli House, 2nd Floor, 8/2 Esplanade East, Kolkata-700 069.
2. Respondent/Assessee : M/s. Kamal Forging Pvt. Ltd 158/11 Belilious Road, Howrah 711101.
3. The CIT(A), 1 Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy, By order,

Senior Private Secretary
Head of Office, ITAT Kolkata

