

आयकर अपीलीय अधीकरण, न्यायपीठ – “B” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
 (समक्ष)Before श्री ऐ. टी. वर्की, न्यायीक सदस्य एवं/and श्री एम .बालागणेश, लेखा सदस्य)
 [Before Shri A. T. Varkey, JM & Shri M. Balaganesh, AM]

I.T.A. Nos. 44 to 46/Kol/2016
Assessment Years: 2011-12 to 2013-14

Special Land Acquisition Officer (TAN: CLTO4448D)	Vs.	Income-tax Officer, Wd-57(4), Kolkata
Appellant		Respondent

Date of Hearing	11.10.2018
Date of Pronouncement	11.10.2018
For the Appellant	Shri Himangshu Ghosh, Advocate
For the Respondent	Shri Robin Choudhury, Addl. CIT, Sr. DR

ORDER

Per Shri A.T.Varkey, JM

These are appeals preferred by the appellant Special Land Acquisition Officer, 24 Parganas North against the order of the Ld. CIT(A)-24, Kolkata dated 30.10.2015 for AYs 2011-12 to 2013-14.

2. At the outset itself, it has been brought to our notice by the Advocate Shri Himangshu Ghosh that the appellant Special Land Acquisition Officer, 24 Parganas North was erroneously held as an assessee in default for non-deduction of TDS on the disbursal of amounts to land owners whose lands were acquired by the Government as per law. According to him, the assessee had deposited the amount/compensation before the learned Land Acquisition Court pursuant to the order of Hon'ble Calcutta High Court dated 18.11.2010 and 09.10.2015. According to Ld. Counsel, since the amount/compensation to the land owners were deposited with the Ld. Land Acquisition Court pursuant to the order of the Hon'ble High Court and since it (the assessee) has not disbursed the amount/compensation directly to any land owners, the assessee cannot be held to be an assessee in default. According to Ld. Counsel, though the assessee requested for an

adjournment before the First Appellate Authority it was not granted to it because of that the assessee could not produce the Hon'ble High Court's order by virtue of it the assessee had deposited the money before the Learned Land Acquisition Court and if an opportunity is given to the assessee, the assessee undertakes to produce the Hon'ble High Court's order to bolster its case as contended before us and is essential and relevant for adjudication of the 'lis' before it. The Ld. Counsel brought to our notice that the assessee had already filed these documents before this Tribunal on 17.08.2018 and drew our attention to page nos 16 and 21 of the paper book which we note is order of Hon'ble High Court dated 18.11.2010 and 09.10.2015. We note that since the assessee's prayer for adjournment was not granted by the Ld. CIT(A) it was not able to produce documents/Hon'ble High Court's order in support of its contention before the Ld. CIT(A). In this scenario, we are of the considered opinion that the assessee should be given an opportunity to produce documents/orders before the authorities below for effective adjudication of the issues involved in the appeals. Therefore, in the interest of justice and fair play, we admit the additional evidence like Hon'ble High Court's order and other documents produced on 07.08.2018 and we set aside the impugned order of Ld. CIT(A) dated 30.10.2015 of all the appeals before us and remand the matter back to the file of the AO for de novo assessment with a direction to decide in accordance with the judicial precedence on the issues and in accordance to law. Needless to say that the appellant Special Land Acquisition Officer is at liberty to produce all relevant documents necessary for adjudication of the issues before the AO and the AO to hear the assessee and decide in accordance to law.

3. In the result, the appeals of assessee are allowed for statistical purposes.

Order is pronounced in the open court.

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(A. T. Varkey)
Judicial Member

Dated: 11th October, 2018

Jd.(Sr.P.S.)

Copy of the order forwarded to:

- 1 Appellant – Special Land Acquisition Officer 24 Parganas (N), Barasat, Govt. of West Bengal, O/o the Collector 24 PGS(N), Land Acquisition Deptt. premises No. 01-030, Block AF, 1st Floor, New Town, Kolkata-700 056.
- 2 Respondent – ITO, Wd-57(4), Kolkata.
- 3 CIT(A)-24, Kolkata. (sent through e-mail)
- 4 CIT , Kolkata
- 5 DR, Kolkata Benches, Kolkata (sent through e-mail)

/True Copy,

By order,

Sr. Pvt. Secretary