

*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "SMC" KOLKATA*

Before **Shri S.S, Godara, Judicial Member**

ITA No.1443/Kol/2018 Assessment Year:2014-15
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Shri Raj Shekhar Agarwal, 11, Shree Arvind Road, Bandhaghat, Howrah-711106 [PAN No.ABDPA 2812 Q]	बनाम/ V/s.	Income Tax Officer, Ward-46(1), Aayakar Bhawan, 3, Govt. Place (West0, 2 nd Floor, Kolkata-001
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shikha Agarwal, ACA
प्रत्यर्थी की ओर से/By Respondent	Shri C.J. Singh, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	11-10-2018
घोषणा की तारीख/Date of Pronouncement	31-10-2018

आदेश /O R D E R

This assessee's appeal for assessment year 2014-15, arises against the Commissioner of Income-tax (Appeals)-14, Kolkata's order dated 21.05.2018 passed in case No.05/CIT(A)-14/Wd-46(1)/2016-17 affirming the Assessing Officer's action disallowing an amount of ₹22,11,430/- on account of share transactions out of which an amount of ₹80,500/- is only stated to have been belonged to him in proceedings u/s. 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. I notice at the outset that the CIT(A) has passed his lower appellate order *ex parte* against the assessee. Learned Departmental Representative takes me to page-2 in para 2 in CIT(A)'s order indicating three notice(s) of hearings dated 12.01.2018, 21.02,2018 & 12.04.2018 fixing the date(s) on 24.01.2018, 06.03.2018 and

20.04.2018; respectively. He fails to indicate even a single observation in the above quoted portion suggesting actual service of notice on taxpayer's address which has remained the same during the course of assessment till date. The fact also remains that CIT(A) has not applied his mind on merits at all as stipulated u/s 250(6) of the Act. I therefore deem it appropriate that larger interest of justice would be served in case that instant appeal is restored back to the file of CIT(A) for afresh adjudication. It is made clear that assessee would be entitled for three effective opportunities of hearing for presenting his case failing which my instant directions would stand vacated.

3. This assessee's appeal is accepted for statistical purposes in above terms.

Order pronounced in open court on 31/10/2018

Sd/-
(S.S. Godara)
Judicial Member

Kolkata,

*Dkp/Sr.PS

दिनांक:- 31/10/2018 कोलकाता

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-Shri Raj Shekhar Agarwal, 11, Shree Arvind Road, Bandhagha Howrah-711106
2. प्रत्यर्थी/Respondent-ITO Wd-46(1), Aayakar Bhawan,3 Govt. Place (West) Kol-001
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।