

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

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

ITA No.988/Kol/2018 Assessment Year:2009-10

Smt. Bhabani Roy Howrah Amta Road, Domjur, Howrah-711402 [PAN No.AHMPR 0715 L]	<u>बनाम/</u> V/s.	Income Tax Officer, Ward-46(1), 3, Govt. Place, Kolkata-001
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri S. Jhajharia, AR
प्रत्यर्थी की ओर से/By Respondent	Shsri Saurav Kumar, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	06-11-2018
घोषणा की तारीख/Date of Pronouncement	16-11-2018

आदेश /O R D E R

This assessee's appeal for assessment year 2009-10, arises against the Commissioner of Income-tax (Appeals)-14, Kolkata's order dated 30.08.2015 passed in case No.307/CIT(A)-14/Ward-46(1)/2010-11 involving proceedings u/s. 143(3) of the Income Tax Act, 1961; in short 'the Act'.

2. It appears at the outset that the CIT(A) has passed his lower appellate order *ex parte* thereby affirming the Assessing Officer's action disallowing assessee's sec. 80IB deduction claim of ₹17,94,548/- in assessment order dated 26.02.2011. Learned Departmental Representative vehemently contends during the course of hearing that the CIT(A) had afforded sufficient opportunities to the assessee for presenting her case during the course of lower appellate proceedings.

3. I find no merit in the instant arguments since there is no indication in the CIT(A)'s *ex parte* order about actual service of notice. Nor the CIT(A) has adjudicated the taxpayer's grievance on merits as stipulated u/s 250(6) of the Act. I therefore remit the instant assessee's instant grievance back to CIT(A) for appropriate adjudication on merits after affording three effective opportunities of hearing.

4. This assessee's appeal is accepted for statistical purposes.

Order pronounced in open court on 16/11/2018

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

Kolkata,

*Dkp/Sr.PS

दिनांक:- 16/11/2018 कोलकाता

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

1. अपीलार्थी/Appellant-Smt. Bhabanai Roy, Domjur Fokor Dokan, Howrah Amta Road, Domjur, Howrah-711402
2. प्रत्यर्थी/Respondent-ITO, Wd-46(1), 3 Govt. Place, Kokata-700001
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 ।