

आयकर अपीलिय अधीकरण, न्यायपीठ – “C(SMC)” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “C(SMC)” BENCH: KOLKATA
 (समक्ष) Before श्री ए. टी. वर्की, न्यायीक सदस्य
 [Before Shri A. T. Varkey, JM]

I.T.A. No. 1113/Kol/2018
Assessment Year: 2007-08

Raj Enterprise (PAN: AAIFR2870F)	Vs.	Income-tax Officer, Wd-42(4), Kolkata
Appellant		Respondent

Date of Hearing	20.12.2018
Date of Pronouncement	20.12.2018
For the Appellant	Shri D. K. Bandyopadhyay, CA
For the Respondent	Smt. Madhumalati Ghosh, Addl. CIT

ORDER

This appeal preferred by the assessee is against the order of the Ld. CIT(A)-13, Kolkata dated 06.11.2017 for AY 2007-08.

2. At the outset itself, the Ld. AR brought to our notice that the impugned order is an ex parte order passed by the Ld. CIT(A) and no notice for hearing was served on the assessee so, the assessee could not present itself through its Ld. AR before the Ld. CIT(A) prompting the Ld. CIT(A) to dispose of the appeal ex parte. He also drew our attention to para 3 of the impugned order wherein it has been stated that the case was fixed for hearing on various dates i.e. on 21.01.15, 13.02.15, 19.02.15, 13.01.2016 and 29.02.2016 but in case of hearing on 29.02.2016 the postal authority returned the said notice with the remark '*addressee moved.*' However, our attention was drawn to the fact that Ld.CIT(A) acknowledged that Ld.AR of the assessee appeared before him on 13.02.2015 and had sought adjournment. And thereafter, the notice fixing the date of hearing in January next year i.e. 2016 was sent after 10 months and postal authorities remarked the change of address. So according to him, the two notices in the year 2016 were not served upon the assessee. So, according to him,

proper opportunity of hearing was not given to the assessee by the Ld. CIT(A). Since there is reasonable cause for assessee not appearing before the Ld. CIT(A) and the Ld. CIT(A) passed the order ex parte, we set aside the order of the Ld. CIT(A) and remand the matter back to the file of the Ld. CIT(A) to decide the appeal afresh after affording reasonable opportunity of being heard to the assessee in accordance to law. And with a direction to assessee to appear before the Ld.CIT(A) on 29.01.2019 and thereafter the Ld.CIT(A) to fix the hearing of the appeal and dispose of the appeal in accordance to law.

3. In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court.

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

Dated: 20th December, 2018

Jd.(Sr.P.S.)

Copy of the order forwarded to:

- 1 Appellant – Raj Enterprise, Satyajit Paul, 24B, Harish Neogy Road, Kolkata-67.
- 2 Respondent – ITO, Ward-42(4), Kolkata.
- 3 CIT(A)-13, Kolkata. (sent through e-mail)
- 4 CIT , Kolkata
- 5 DR, Kolkata Benches, Kolkata (sent through e-mail)

/True Copy,

By order,
Assistant Registrar