

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH : KOLKATA

[Before Hon’ble Shri S.S.Godara, JM & Hon’ble Shri M.Balaganesh, AM]

I.T.A No. 250/Kol/2018

Assessment Year : 2014-15

M/s A.G. Commotrade Pvt. Ltd.  
[PAN: AALCA 3304 P]  
(Appellant)

-vs-

ITO, Ward-4(3), Kolkata  
  
(Respondent)

For the Appellant : Shri Subash Agarwal, Advocate

For the Respondent : Shri Sankar Halder, Addl. CIT Sr. DR

Date of Hearing : 24.12.2018

Date of Pronouncement : 28.12.2018

**ORDER**

**Per M.Balaganesh, AM**

1. This appeal by the Assessee arises out of the order of the Learned Commissioner of Income Tax(Appeals)-2, Kolkata [in short the ld CIT(A)] in Appeal No.10838/CIT(A)-2/16-17 dated 09.01.2018 against the order passed by ITO, Ward-4(3), Kolkata [ in short the ld AO] under section 144(1) of the Income Tax Act, 1961 (in short “the Act”) dated 30.11.2016 for the Assessment Year 2014-15.

2. At the outset, we find that the Ld. CIT(A) had passed ex parte without hearing the assessee. In this regard, the ld. AR before us stated that the address to which the notice of hearing should be served has been clearly mentioned by the assessee in form no. 35 in serial no. 17 as:

“ C/o. N.K. Goyal, AR,  
16, N.S. Road, Kolkata, West Bengal  
Mob. No. 9831046053  
e-mail ID- [ngc.narendra@gmail.com](mailto:ngc.narendra@gmail.com)”

The assessee's address as mentioned in the order of the Ld. CIT(A) is **27/1, Chinnar Park, 1<sup>st</sup> Floor, Kolkata-700157**. We find that the Ld. CIT(A) categorically had mentioned that the notice of hearing could not be served on the assessee. We find that when the assessee had duly mentioned the address to which the notice of hearing should be served, it is wrong on the part of the Ld. CIT(A) or his office to serve the notice on the assessee at a different address, which resulted in assessee not able to comply with the said notice, consequentially resulting in framing of ex parte order by the Ld. CIT(A). In this peculiar facts and circumstances, we deem it fit and appropriate, in the interest of justice and fair play, to remand this appeal to the file of Ld. CIT(A) for de novo adjudication on merits. The assessee is hereby directed to appear before the Ld. CIT(A) on 25.04.2019 and not to take any adjournment except due to exceptional or bonafide circumstances. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

**Order pronounced in the Court on 28.12.2018**

Sd/-

[S.S. Godara]  
Judicial Member

Sd/-

[ M.Balaganesh ]  
Accountant Member

Dated : 28.12.2018

SB, Sr. PS

Copy of the order forwarded to:

1. M/s A.G. Commotrade Pvt. Ltd, N.K. Goyal, 16, N.S. Road, 2<sup>nd</sup> Floor, Kolkata-700001.
2. ITO, Ward-4(3), Kolkata, P-7, Chowringhee Square, Kolkata-700069.
- 3..C.I.T.(A)-
4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches