

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. 510/Kol/2018

Assessment Year : 2014-15

Naveen Bhattar  
[PAN: AEEPB 9697 N]  
(Appellant)

-vs-

ACIT, Circle-35, Kolkata  
  
(Respondent)

For the Appellant : Shri Subash Agarwal, Advocate

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

Date of Hearing : 26.12.2018

Date of Pronouncement : 01.01.2019

**ORDER**

**Per M.Balaganesh, AM**

1. This appeal by the Assessee arises out of the order of the Learned Commissioner of Income Tax(Appeals)-10, Kolkata [in short the Id CIT(A)] in Appeal No.277/CIT(A)-10/C-35/2014-15/2016-17/Kol dated 31.01.2018 against the order passed by ACIT, Circle-35, Kolkata[ in short the Id AO] under section 143(3) of the Income Tax Act, 1961 (in short “the Act”) dated 31.08.2016 for the Assessment Year 2014-15.
2. Though the assessee had raised various grounds with regard to disallowance of sales promotion expenses and addition made towards undisclosed income received from

Ultra Tech Cement Ltd. and HDFC, the first ground raised by the assessee is with regard to ex parte order passed by the ld. CIT(A). We find that the ld. CIT(A) had passed an order ex parte without hearing the assessee on merits. We also find from the appellate order that certain opportunities were indeed given to the assessee which were un complied with by the assessee. In that scenario, the ld. CIT(A) is expected to dispose off the appeal on merits which was not done in the instant case. Both the parties mutually agreed that this issue requires to be set aside to the file of ld. CIT(A) for de novo adjudication. In the peculiar facts and circumstances of the case in the interest of justice and fair play, we deem it fit and appropriate to remand this appeal to the file of the Ld. CIT(A) for de novo adjudication on merits. The Ld. CIT(A) is directed to adjudicate the issue on merits uninfluenced by earlier decision taken by him in this regard. The assessee is directed to appear before the Ld. CIT(A) on 20.03.2019 and not to take any adjournment except due to exceptional or unavoidable circumstances. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

**Order pronounced in the Court on 01.01.2019**

Sd/-

[S.S. Godara]  
Judicial Member

Sd/-

[ M.Balaganesh ]  
Accountant Member

Dated : 01.01.2019  
SB, Sr. PS

Copy of the order forwarded to:

1. Naveen Bhattar, C/o, Subash Agarwal & Associates, Sidha Gibson, 1, Gibson lane, Room. 213, 2<sup>nd</sup> Floor, Kolkata-700069.
2. ACIT, Circle-35, Kolkata, Aayakar Bhawan Poorva, 110, Shantipally, opporsite Ruby Hospital, Kasba, E.M. Bye Pass, Kolkata, West Bengal-700107.
- 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