

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, KOLKATA**

**Before Sri J. Sudhakar Reddy, Accountant Member & Sri S.S. Godara, Judicial Member**

**I.T.A. No. 1265/KOL/2017**  
Assessment Year: 2012-13

**Anandmoyee Shelter Pvt. Ltd.....Appellant**  
**[PAN : AAGCA 8350 E]**

**I.T.O, Ward - 3(2), Kolkata.....Respondent**

**Appearances by:**

*Shri A.K. Tibrewal, FCA, appeared on behalf of the Appellant.*

*Shri Christopher Jerome Singh, JCIT(Sr. DR), appeared on behalf of the Respondent..*

Date of concluding the hearing : December 12, 2018

Date of pronouncing the order : January 16, 2019

**ORDER**

**Per J. Sudhakar Reddy, Accountant Member :-**

This appeal filed by the assessee is directed against the order of the Learned Commissioner of Income Tax (Appeals)-9, Kolkata, (ld. CIT(A)) dated 28.02.17 passed u/s. 250 of the Income Tax Act, 1961, (the 'Act'), for the Assessment Year 2012-13.

2. The ld. Counsel for the assessee submitted that the Assessing Officer passed an ex parte order u/s 144 of the Act and the ld. CIT(A) has passed an ex parte order by violating the principle of natural justice. He submitted that the assessee had filed submissions before the Assessing Officer on 20.03.2015 and without going through the same, the Assessing Officer has passed an order. He further submitted that the ld. CIT(A) did not consider the request for adjournment filed by the assessee and under those circumstances, the appeal should be restored to the file of the Assessing Officer for fresh adjudication in accordance with law on the ground of natural justice.

3. The ld. DR, on the other hand, submitted that the appeal may be restored to the file of the ld. CIT(A) as the Assessing Officer has considered the written submissions filed by the assessee and thereafter passed an order ex parte u/s 144 of the Act.

4. After hearing the rival contentions, we are of the considered opinion that the issue should be restored to the file of the ld. CIT(A) as the ld. CIT(A) has passed an ex

parte order. The appeal has not been dealt with on merit by the ld. CIT(A). The assessee sought adjournment and this was not granted by the ld. CIT(A). The request of the ld. Counsel for the assessee that the matter should be restored to the Assessing Officer is rejected, as the Assessing Officer at Page 2 has stated that the written submissions had been carefully perused and the order was passed. The ld. CIT(A) may call for the remand report from the Assessing Officer in case he feels it necessary and the assessee files additional evidences before him in support of his case. In the result, the appeal is restored in the file of the ld. CIT(A) for fresh adjudication on the ground of natural justice.

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

***Kolkata, the 16<sup>th</sup> December, 2018.***

Sd/-  
**[S.S. Godara]**  
Judicial Member

Dated : 16.01.2018  
RS, SPS

Sd/-  
**[J. Sudhakar Reddy]**  
Accountant Member

*Copy of the order forwarded to:*

- 1. Anandmoyee Shelter Pvt. Ltd., 8, Lyons Range, Ground Floor, Kol-1.**
- 2. ITO, Ward-3(2), Aayakar Bhawan, P-7, Chowringhee Square, Kol-69.**
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

True copy

By order

Assistant Registrar, Kolkata Benches