

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में ।
**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR**

**BEFORE SHRI ANIL CHATURVEDI, AM AND
SHRI PARTHA SARATHI CHAUDHURY, JM**

आयकर अपील सं. / ITA No.17/RPR/2016

निर्धारण वर्ष / Assessment Year : 2011-12

M/s. Royal Iron Ore Industry,
C/o. CA Neeraaj Baid,
Jain and Baid, Chartered
Accountants, S U R Verma
Complex, Shyam Talkies Road,
Budhapara, Raipur-492 001 (CG)
PAN : AAIFR8107M

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Jagdalpur (CG).

.....प्रत्यर्थी / Respondent

Assessee by : Shri P. Khandelwar

Revenue by : Shri Sanjay Kumar

सुनवाई की तारीख / Date of Hearing : 16.01.2019

घोषणा की तारीख / Date of Pronouncement : 17.01.2019

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM :**

This appeal preferred by the assessee emanates from the order of Ld. CIT(Appeals)-1, Civil Line, Raipur(CG) dated 02.11.2015 for the assessment year 2011-12 as per the grounds of appeal on record.

2. At the time of hearing, Ld. AR of the assessee apprised the Bench that in this case ex-parte order has been passed by the Ld. CIT(Appeals). The Ld. AR fairly admitted that in spite of several opportunities, there was no proper representation before the Ld. CIT(Appeals). However, he prayed one final opportunity may be given in the interest of justice so that the case may be presented before the Ld. CIT(Appeals) on merits and therefore, the matter may be restored back to the file of First Appellate Authority.

3. The Ld. DR though agreed on principle, however, on facts opposed the prayer of the Ld. AR on the ground that sufficient opportunity were provide to the assessee, still there was no response from the assessee's side.

4. We have perused the case record and heard the rival contentions. We notice that the order passed by the Ld. CIT(Appeals) is an ex-parte order and there was no representation by the assessee herein. It is clear

that the rights and liabilities of the assessee were not adjudicated on merits before the Ld. CIT(Appeals). It is evident that the order passed by the Ld. CIT(Appeals) is based on ground of appeal, statement of facts which are part of Form-35. The taxing laws specially the laws on direct tax are welfare in nature and they are not penal legislation. The purpose of the income tax is to create balance between the Revenue and the tax payer and in welfare legislation it somewhere needs that when the tax payer has provided revenue, it is for the benefit and betterment of the entire nation. The quasi-judicial Authority should therefore works in such a manner that the tax payer are not penally killed rather every efforts should be made so that they should be kept in stable position wherein they can work and earn income and pay tax to the Government.

5. Considering the entire phenomena and in the interest of justice, we set aside the order of the Ld. CIT(Appeals) and restore the matter to his file to adjudicate the issue on merits after providing reasonable opportunity of hearing to the assessee. The assessee is directed at the same time to provide necessary documentary evidences before the Ld. CIT(Appeals) with regard to the issue and present the case on merits and service of notice is dispensable.

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

Order pronounced on 17th day of January, 2019.

Sd/-
ANIL CHATURVEDI
ACCOUNTANT MEMBER

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 17th January, 2019.
SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT (Appeals)-1, Raipur (CG)
4. The Pr. CIT-1, Raipur.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / The DR, ITAT, Raipur Bench, Raipur.

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आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.

		Date	
1	Draft dictated on	16.01.2019	Sr.PS/PS
2	Draft placed before author	17.01.2019	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		

