

IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH KOLKATA

BEFORE SHRI A.T.VARKEY, JM &DR. A.L.SAINI, AM

आयकरअपीलसं./ITA No.1690/Kol/2017

(निर्धारणवर्ष / Assessment Year: 2009-10)

Veeline Media Ltd. 3, Mangoe Lane, Kolkata-700001	Vs.	DCIT, Circle-5, Kolkata Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-700069.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAACV 9139 N		
(Assessee)	..	(Revenue)

Assessee by : Shri Bishnukant Agarwal, FCA

Respondent by : Shri Robin Chourdury, Addl. CIT Sr. DR

सुनवाईकीतारीख/ Date of Hearing : 23/01/2019

घोषणाकीतारीख/Date of Pronouncement : 30/01/2019

आदेश / O R D E R

Per Dr. A. L. Saini:

The captioned appeal filed by the Assessee pertaining to assessment year 2009-10, is directed against an order passed by the learned Commissioner of Income Tax (Appeals)-2, Kolkata (in short the Id. CIT(A)], which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) & 115WE(3) of the Income Tax Act, 1961 (in short the Act) dated 16.12.2011.

2. At the outset itself, the Id. Counsel for the assessee assailed the impugned order by contending that the assessee could not represent his case before Ld. CIT(A) and the order being an ex-parte order, stood vitiated on account of violation of principle of natural justice. The Id. Counsel for the assessee contended that in the

interest of justice, another opportunity to contest the appeal before the Ld. first appellate authority may be granted to the assessee.

3. We note that in the assessee's case under consideration, the assessment was carried out u/s 143(3) / 115WE(3) of the Act and the impugned order passed by the Id. CIT(A) is an *ex parte* order, therefore, we do not wish to make any comments on the merits of the grounds raised by the assessee.

4. Considering the above facts, we note that assessee has not participated in the appellate proceedings. However, we note that Id CIT(A) did not consider the assessment records and findings of Id assessing officer to decide the various issues on merits. We note that a perusal of the body of the impugned order, it is apparent that it is an *ex parte* order which has been challenged by the assessee for want of proper opportunity. We are of the view that one more opportunity should be given to the assessee to plead his case before the Id CIT(A). Therefore, without delving much deeper into the merits of the case, in the interest of justice, we restore the matter back to the file of Ld. CIT(A) for de novo adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, we deem it fit and proper to set aside the order of the Id. CIT(A) and remit the matter back to the file of the Id. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order pronounced in the Court on 30.01.2019

Sd/-
(A.T.VARKEY)
न्यायिकसदस्य / JUDICIAL MEMBER

Sd/-
(A.L.SAINI)
लेखासदस्य / ACCOUNTANT MEMBER

कोलकाता /Kolkata;

दिनांक/ Date: 30/01/2019

(SB, Sr.PS)

Copy of the order forwarded to:

1. Veeline Media Ltd.
2. DCIT, Circle-5, Kolkata
3. C.I.T(A)-
4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

True copy

By Order

Assistant Registrar
ITAT, Kolkata Benches