

*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "SMC" KOLKATA*

Before **Shri S.S, Godara, Judicial Member**

ITA No.1749/Kol/2018
Assessment Year:2014-15

Naveen Enterprises M/s Naveen Enterprises, 55, Ezra Street, Ground Floor, Kolkata-700001 [PAN No.AACFN 8731 B]	<u>बनाम/</u> <u>V/s.</u>	Income Tax Officer, Ward-35(2), Aayakar Bhawan, Poorva, 110, Shantipally, Nr.Ruby Hospitala, E.M. Bye Pass, Kolkata-107
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri S. Surana, Advocate
प्रत्यर्थी की ओर से/By Respondent	Smt. Madhumalti Ghosh, Addl. CIT-SR-DR
सुनवाई की तारीख/Date of Hearing	23-01-2019
घोषणा की तारीख/Date of Pronouncement	31-01-2019

आदेश /O R D E R

This assessee's appeal for assessment year 2014-15, arises against the Commissioner of Income-tax (Appeals)-10, Kolkata's order dated 18.05.2018 passed in case No.447/CIT(A)-10/W-35(2)/2014-15/2016-17/Kol involving proceedings u/s. 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. I notice at the outset that the CIT(A) has passed his lower appellate order *ex parte* whilst confirming the Assessing Officer's action disallowing /a addition advances from Sandeep Creditors, telephone expenses, salary and business expenses involving sums of ₹8,88,796/-, ₹20,828/- ₹2,25,418/- & ₹3,650/-; respectively. Learned Addl. CIT-DR vehemently contends during the course of hearing that CIT(A) has afforded sufficient opportunities of hearing to the assessee for presenting

its case in the course of lower appellate proceedings. She takes me to page 2 para-3 in CIT(A)'s order suggesting speed post notice dated 10.04.2018 for hearing on 16.05.2018. She fails to dispute that CIT(A) has proceeded *ex parte* against the assessee for a single default in appearance before CIT(A). Coupled with this, the CIT(A)'s adjudication in respect of all the relevant grounds pleaded has nowhere discussed the relevant facts and circumstances before affirming the Assessing Officer's action making the impugned disallowance(s) /addition(s) as contemplated u/s 250(6) of the Act. I therefore deem it appropriate in these peculiar facts and circumstances that the CIT(A) needs to re-adjudicate assessee's lower appeal afresh as per law after affording three effective opportunities of hearing. Ordered accordingly.

3. This assessee's appeal is allowed for statistical purposes.

Order pronounced in open court on 31/01/2019

Sd/-
(S.S. Godara)
Judicial Member

Kolkata,

*Dkp/Sr.PS

दिनांक:- 31/01/2019 कोलकाता

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-M/s Naveen Enterprises, 55, Ezra St, Gr.Fl. Kolkata-001
2. प्रत्यर्थी/Respondent-ITO Ward-35(2), Aayakar Bhawan, Poorva, 110, Shantipally
Nr. Ruby Hospital, E.M. Bye Pass, Kolkata-107
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।