

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH: KOLKATA

Before: **Shri P. M. JAGTAP, Vice President and
Shri S.S. Viswanethra Ravi, Judicial Member**

I.T.A No.459/Kol/2018
(Assessment Year: 2012-13)

Majestic Marcom Pvt. Ltd.
[PAN: AAHCM 4584 F]

Appellant

Vs

ITO, Ward-4(2), Kolkata

Respondent

For the Appellant : Shri M. D. Shah, Ld. AR
For the Respondent : Shri S. Halder, Sr. DR

Date of hearing : 20.12.2018
Date of pronouncement : 27.02.2019

ORDER

Shri S.S. Viswanethra Ravi, JM:

This appeal by the assessee against the order dated 13.05.2016 passed by the Commissioner of Income Tax (Appeals)-2, Kolkata [‘CIT(A)’] for Assessment Year 2012-13.

2. Heard both parties and perused the materials available on record. The contention of the Id. AR is that assessee filed an application requesting CIT(A) to withdraw all the grounds before the CIT(A). But the CIT(A) without giving permission to withdraw the appeal confirmed the order of the Assessing Officer. Further, he submits that the CIT(A) otherwise should have decided the issue on merits. The Id. DR did not controvert the same.

3. We find that in a similar and identical facts, this Tribunal restored the matter to the file of the CIT(A) by its orders dated 20.12.2018 in ITA No.430/Kol/2018 & ITA No.431/Kol/2018 for

Assessment Year 2012-13. The relevant portion in ITA No.430/Kol/2018 is reproduced hereinbelow:

“4. We have heard the arguments of both the sides and also perused the relevant material available on record. As rightly submitted by the ld. Counsel for the assessee, when the request of the assessee for withdrawal of his appeal was not found acceptable by the ld. CIT(Appeals) and the appeal of the assessee was to be disposed of by him on merit, he should have given an opportunity of being heard to the assessee. A perusal of the impugned order passed by the ld. CIT(Appeals), however, shows that no such opportunity of being heard was given by him to the assessee and the order of the Assessing Officer was upheld by him by passing a very cryptic order without stating the points for determination, the decision thereon and the reasons for the decision as required by the provisions of sub-section (6) of section 250. We, therefore, set aside the impugned order passed by the ld. CIT(Appeals) and remit the matter back to him for disposing of the appeal of the assessee afresh by passing a speaking order as required by section 250(6) after giving the assessee proper and sufficient opportunity of being heard.”

4. In view of the above, we deem it proper to remand the matter to the file of the CIT(A) for disposing the appeal afresh by passing a speaking order as referred by section 250(6) of the Act after giving the assessee sufficient opportunity of being heard. Grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 27.02.2019.

Sd/-
[P. M. JAGTAP]
Vice President

Sd/-
[S.S. Viswanethra Ravi]
Judicial Member

Dated : 27.02.2019

Place : Kolkata

RS, Sr.PS

Copy of the order forwarded to:

1. Appellant –Majestic Marcom Pvt. Ltd., 8, Amartolla Street, 4th Floor, Kol-1.
- 2 Respondent – ITO, Ward-4(2), Kolkata.
3. The CIT(A), Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

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By order,

Assistant Registrar,
ITAT, Kolkata