

आयकर अपीलीय अधिकरण, "एस.एम.सी", न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, CUTTACK

श्री चन्द्र मोहन गर्ग, न्यायिक सदस्य के समक्ष ।

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

आयकर अपील सं./ITA No.364/CTK/2018

(निर्धारण वर्ष / Assessment Year :2015-2016)

Robotic Wares Pvt. Ltd., 5 th Floor, Tower-B, Plot No.8, Lotus Business Park, Sector-127 Noida-201304	Vs.	DCIT, Circle-1(2), Bhubaneswar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAECR 4382 D		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri C.Parida, AR
राजस्व की ओर से /Revenue by : Shri Subhendu Dutta, DR
सुनवाई की तारीख / Date of Hearing : **08/03/2019**
घोषणा की तारीख/Date of Pronouncement **11/03/2019**

आदेश / O R D E R

This appeal has been filed by the assessee against the order of Commissioner of Income Tax (Appeals)-1, Bhubaneswar, dated 05.07.2018 passed in First Appeal No.0140/17-18 for the assessment year 2015-2016.

2. Ld. AR, apart from the grounds of appeal raised by the assessee, at the outset, submitted that due to some inevitable circumstances, the assessee could not appear before the CIT(A), resulting into dismissal of the appeal of the assessee by the CIT(A) on account of non-appearance and prayed for allowing the one more opportunity to represent its case before the CIT(A).

3. Ld. DR, on the other hand, objected to the submissions of the assessee and submitted that the assessee has neither appeared before

the CIT(A) nor has filed any written submission and again praying for opportunity without explaining the reasonable cause, which may not be permitted.

4. I have heard rival submissions and perused the materials available on record. I find that the Id. CIT(A) has observed that the assessee has neither appeared before him nor filed any written submission to substantiate its claim, which resulted into passing of ex-parte order on account of non-appearance of the assessee. On being asked by the bench, Id. AR in all fairness submitted that the assessee has no objection if the bench imposes cost but an opportunity of hearing may kindly be provided. Id. DR strongly opposed to the restoration of appeal to the CIT(A), however, prayed for exemplary cost should be imposed in case the case of the assessee is restored to the file of first appellate authority.

5. In the totality of facts and circumstances of the case, I found that principle of natural justice requires that the assessee should be allowed an opportunity of being heard by the quasi judicial authority. However, I cannot ignore that the assessee did not comply with the notice issued by the first appellate authority which resulted into ex-parte order. Therefore, I direct the assessee to pay and deposit **Rs.10,000/-(Rupees Ten Thousand only)** by way of cost to the department within a period of one month from the date of this order.

6. With the above direction, appeal of the assessee is restored back to the file of CIT(A) to dispose off the appeal of the assessee after allowing

reasonable and proper opportunity of hearing to the assessee. I order accordingly.

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

Order pronounced in the open court on 11/03/2019.

Sd/-
(CHANDRA MOHAN GARG)
न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 11/03/2019

प्र.कु.मि/PKM, Sr.P.S.

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

1. अपीलार्थी / The Appellant- .
Robotic Wares Pvt. Ltd.,
5th Floor, Tower-B, Plot No.8, Lotus Business
Park, Sector-127, Noida-201304
2. प्रत्यर्थी / The Respondent-
DCIT, Circle-1(2), Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, कटक / ITAT, Cuttack