

आयकर अपीलीय अधीकरण, न्यायपीठ – “D” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH: KOLKATA
 (समक्ष)श्री पी. एम.जगताप, उपाध्यक्ष एवं श्री ए.टी. वर्की,न्यायिक सदस्य)
 [Before Shri P.M. Jagtap, Vice President & Shri A. T. Varkey, JM]

I.T.A. No. 752/Kol/2018
Assessment Year: 2012-13

M/s. Hitasu Constructions Pvt. Ltd. (PAN: AAACH6494G)	Vs.	Income-tax Officer, Wd-3(1), Kolkata
Appellant		Respondent
Date of Hearing		09.01.2019
Date of Pronouncement		20.03.2019
For the Appellant		N o n e
For the Respondent		Shri Radhey Shyam, CIT, DR

ORDER

Per Shri A.T.Varkey, JM

This is an appeal preferred by the assessee against the order of Ld. CIT(A)-1, Kolkata dated 28.03.2018 for AY 2012-13.

2. None appeared on behalf of the assessee though it is the first date fixed for hearing. The assessee's main grievance is that the Ld. CIT(A) has passed the impugned order ex parte and without going into merits of the case and also the assessee was not provided proper opportunity of hearing by the Ld. CIT(A). So by preferring ground no. 4 of the appeal, the assessee wanted the matter to be remanded back to the file of Ld. CIT(A) for adjudication of the appeal on merits afresh. Per contra, the Ld. CIT, DR drew our attention to the fact that sufficient opportunities were given to the assessee, and there was non-compliance on the part of the assessee. So, according to Ld. DR, Ld. CIT(A) had no other alternative but to pass ex parte order, so he does not want us to interfere in the order of Ld. CIT(A).

3. We have heard both the sides and gone through facts and circumstances of the case. We note that the Ld. CIT(A) has passed the impugned order ex parte, without going into merits of the case. We also note from the order of Ld. CIT(A) that assessee was given only

two dates. Therefore, according to us, the Ld. CIT(A) has passed the order hurriedly without giving proper opportunity to assessee, so, there is violation of Natural Justice. Though the Ld. DR opposes giving an opportunity again before the Ld. CIT(A), we are inclined to give another opportunity to the assessee to plead its case before the Ld. CIT(A). Therefore, we set aside the impugned order of the Ld. CIT(A) and restore the appeal back to his file for fresh adjudication after providing reasonable opportunity of being heard to the assessee in accordance to law. Appeal of assessee is allowed for statistical purposes.

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

Order is pronounced in the open court on 20th March, 2019

Sd/-

(P. M. Jagtap)
Vice President

Sd/-

(Aby. T. Varkey)
Judicial Member

Dated : 20th March, 2019

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – M/s. Hitasu Construction Pvt. Ltd., 1, Crooked Lane, Kolkata-700 069.
2. Respondent – ITO, Ward-3(1), Kolkata
3. CIT(A)-1, Kolkata (sent through e-mail)
4. CIT- , Kolkata.
5. DR, ITAT, Kolkata. (sent through e-mail)

/True Copy,

By order,

Assistant Registrar