

IN THE INCOME TAX APPELLATE TRIBUNAL GAUHATI 'E COURT' AT KOLKATA
[Before Shri P.M. Jagtap, Vice President & Shri S.S. Viswanethra Ravi, JM]

ITA No. 90/Gau/2019
Assessment Year: 2015-16

Md. Munnaf Ahmed.....Appellant
House No. 61, Panjabari Road Juripar,
Nowapara, Opp. Iddgah Maidan,
Guwahati - 781 027.
[PAN : AGEPA 5942 M]

ACIT, Circle - 3, GuwahatiRespondent
Guwahati.

S.A. No. 13/Gau/2019
(Arising out of ITA No. 90/Gau/2019)
Assessment Year: 2015-16

Md. Munnaf Ahmed.....Appellant
House No. 61, Panjabari Road Juripar,
Nowapara, Opp. Iddgah Maidan,
Guwahati - 781 027.
[PAN : AGEPA 5942 M]

ACIT, Circle - 3, GuwahatiRespondent
Guwahati.

Appearances by:

Shri Kishor Jain, CA appearing on behalf of the Assessee.
Shri Sandip Sengupta, JCIT, Sr. DR appearing on behalf of the Revenue.

Date of concluding the hearing : March 25, 2019

Date of pronouncing the order : March 25, 2019

ORDER

PER P.M. JAGTAP, VICE PRESIDENT

At the time of hearing of stay application filed by the assessee in this case being, the learned representatives of both the sides have agreed that the corresponding appeal of the assessee being ITA No. 90/Gau/2019 filed against the order of the Ld. CIT(A) passed ex-parte can itself be taken up for hearing and disposed of. Accordingly, they have taken notice and the appeal of the assessee itself has been heard.

2. It is observed that this appeal of the assessee is directed against the order of the Ld. CIT(A), Guwahati – 2 dated 16.01.2019 passed ex-parte whereby he dismissed the appeal of the assessee for non-prosecution. In this regard, the preliminary issue raised by the learned counsel for the assessee is that the Ld. CIT(A) vide his impugned order passed ex-parte has dismissed the appeal of the assessee without giving proper and sufficient opportunity of being heard to the assessee. As pointed out by him from the impugned order of the Ld. CIT(A), the appeal of the assessee was fixed for hearing by the Ld. CIT(A) on three occasions within a period of less than two months and although the assessee had sought adjournment at least on two occasions including the last hearing fixed on 27.12.2018, the Ld. CIT(A) proceeded to dismiss the appeal of the assessee for non-prosecution vide his impugned order passed ex-parte without giving any further opportunity to the assessee of being heard. The learned counsel for the assessee has contended that there is a clear violation of principle of natural justice by the Ld. CIT(A) and even the learned DR has not been able to dispute this position. Moreover, as per the provisions of sub-section (6) of section 250, the Ld. CIT(A) was required to dispose of the appeal of the assessee by an order in writing stating therein the points for determination, the decision thereon and the reason for the decision. A perusal of the impugned order passed by the Ld. CIT(A) shows that the same does not comply with this mandatory requirements. We, therefore, set aside the impugned order passed by the Ld. CIT(A) ex-parte and remit the matter back to him for disposing of the appeal of the assessee afresh on merit by passing a well reasoned and well discussed order after giving the

assessee a proper and sufficient opportunity of being heard. As undertaken by the learned counsel for the assessee, the assessee shall make due compliance before the Ld. CIT(A) and shall extend all the possible cooperation in order to enable the Ld. CIT(A) to dispose of the appeal expeditiously.

3. As a result of disposal of the corresponding appeal of the assessee, the stay application filed by the assessee in this case has become infructuous and the same is liable to be dismissed.

4. In the result, the stay application filed by the assessee is dismissed while the appeal filed by the assessee is treated as allowed for statistical purpose.

Order Pronounced in the Open Court on 25th March, 2019

Sd/-

(S.S.Viswanethra Ravi)
JUDICIAL MEMBER

Sd/-

(P.M. Jagtap)
VICE PRESIDENT

Dated: 25/03/2019

Biswajit, Sr. PS

Copy of order forwarded to:

1. Md. Munnaf Ahmed, H. No. 61, Panjabari Road, Juripar, Nowapara, Opp. Iddgah Maidan, Guwahati, Assam – 781 027.
2. ACIT, Circle – 3, Guwahati.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.
ITAT, Gauhati Benches