

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

BEFORE SHRI A. T. VARKEY, JM & DR. A.L.SAINI, AM

आयकरअपीलसं./ITA No.1765/Kol/2018

(निर्धारणवर्ष / Assessment Year: 2014-15)

India Power Construction Ltd. Plot X1-2 & 3, Block EP, Sector-V, Salt Lake City, Kolkata-700091	Vs.	DCIT, Circle-2(1), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABCD 0340 G		
(Assessee)	..	(Revenue)

Assessee by : Shri Amit Agarwal, ACA
Respondent by : Shri Radhey Shyam, CIT DR

सुनवाईकीतारीख/ Date of Hearing : 14/03/2019

घोषणाकीतारीख/Date of Pronouncement : 29/03/2019

आदेश / ORDER

Per Dr. A. L. Saini:

The captioned appeal filed by the assessee , pertaining to assessment year 2014-15, is directed against the order passed by the Commissioner of Income Tax (Appeal)-1 , Kolkata, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (in short the Act) dated 23.12.2016.

2. At the outset itself, the assessee submitted before us, by contending that the assessee could not represent his case before Ld. CIT(A) and the order being an ex-parte order, stood vitiated on account of violation of principle of natural justice.

The Id. Counsel for the assessee contended that in the interest of justice, another opportunity to contest the appeal before the Ld. first appellate authority may be granted to the assessee.

3. We have heard both the parties and perused the material available on record. We note that the Id. CIT(A) did not consider the assessment records and did not pass order on merits based on the documents available before him hence it is a violation of principle of natural justice. We note that the Id. CIT(A) failed to determine the obligations and rights of the assessee. We note that during the appellate proceedings, the assessee appeared before the Id. CIT(A), however, Id. CIT(A) did not take into account the presence of the assessee and passed the ex parte order. We note that it is settled law that principles of natural justice and fair play require that the effected party is granted sufficient opportunity of being heard to contest his case. Hence we are of the view that one more opportunity should be given to assessee to plead his case before Id. CIT(A). Therefore, without delving much deeper into the merits of the case, in the interest of justice, we restore the matter back to the file of Ld. CIT(A) for de novo adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, we deem it fit and proper to set aside the order of the Id. CIT(A) and remit the matter back to the file of the Id. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is allowed.

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

Order pronounced in the Court on 29.03.2019

Sd/-

(A.T. VARKEY)

न्यायिकसदस्य / JUDICIAL MEMBER

कोलकाता /Kolkata;

दिनांक/ Date: 29/03/2019

(SB, Sr.PS)

Sd/-

(A.L.SAINI)

लेखासदस्य / ACCOUNTANT MEMBER

Copy of the order forwarded to:

1. India Power Corporation Ltd.
2. DCIT, Circle-2(1), Kolkata
3. C.I.T(A)-
4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

True copy

By Order

Assistant Registrar
ITAT, Kolkata Benches