

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. 677/Kol/2018
Assessment Years: 2012-13

| | | |
|---------------------------------------------|-----|--------------------|
| Baleswar Oils (P) Ltd. PAN: AABCB 3225 E | Vs. | ITO (TDS), Hooghly |
| Appellant | | Respondent |

| | |
|-----------------------|-----------------------------------|
| Date of Hearing | 05.02.2019 |
| Date of Pronouncement | 05.04.2019 |
| For the Appellant | Shri Somnath Ghosh, Adv. |
| For the Respondent | Shri Shankar Halder, SR. DR(JCIT) |

ORDER

Per Shri A.T.Varkey, JM

This is an appeal preferred by the Assessee against the order of CIT(A), 24 dated 29.01.2018 for A.Y. 2012-13 passed u/s 221 of the Income tax Act, 1961.

2. We note that there is delay of one day in filing the appeal. According to the assessee because of the non-handing over of the impugned order in time, the learned AR could not file the appeal within the time stipulated by the statute which caused one day's delay. The learned DR does not have any objection. So we condone the delay.

3. At the outset we note that it is an ex-parte order passed by the Ld. CIT(A). According to the ld. AR, the hearing was fixed on 21.12.2017 and thereafter on 11.01.2018 and 24.01.2018. According to the ld. AR the first notice the assessee received was only on 22.12.2017 i.e. one day after the appeal was fixed on 21.12.2017 and, therefore, the assessee could not appear and thereafter the matter were fixed within the interval of 13 days and since the assessee received the notice late it could not appear. In such a scenario, we note

that no proper opportunity was granted by the Ld. CIT(A) before disposing of the appeal ex-parte without going into the merits of the case. Therefore, in the interest of justice and fair play, we set aside the order of the Ld. CIT(A) and remand the matter back to the file of Ld. CIT(A) to adjudicate the appeal on merit after hearing the assessee in accordance to law.

4. In the result, the appeal of the Assessee is allowed for statistical purpose.

Order is pronounced in the open court on 05.04.2019

Sd/-

(P.M. Jagtap)
Vice-President

Sd/-

(Aby. T. Varkey)
Judicial Member

Dated : 5th April, 2019

Biswajit (Sr. P.S.)

Copy of the order forwarded to:

1. Appellant – Baleswar Oils (P) Ltd., C/o. S.N. Ghosh & Associates, Advocates, Seben Brothers Lodge, Buroshibtala, Chinsurah, Hooghly – 712 105.
2. Respondent – ITO (TDS), Hooghly, G.T. Road, Khadina More, Chinsurah, Hooghly – 712 101.
3. The CIT(A) - Kolkata. (through e-mail)
4. CIT Kolkata
5. DR, ITAT, Kolkata. (through e-mail)

/True Copy,

By order,

Assistant Registrar/H.O.O.
ITAT, Kolkata Benches