

आयकर अपीलीय अधीकरण, न्यायपीठ – “(SMC)” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “(SMC)” BENCH: KOLKATA
 (समक्ष) श्री ऐ. टी. वर्की, न्यायीक सदस्य
 [Before Shri A. T. Varkey, JM]

I.T.A. No. 2399/Kol/2018
Assessment Year: 2014-15

M/s. Chel Service Station (PAN: AACFC4318H)	Vs.	Assistant Commissioner of Income-tax Circle-23(1), Hooghly
Appellant		Respondent

Date of Hearing	19.03.2019
Date of Pronouncement	10.04.2019
For the Appellant	Shri S. P. Dutta, Advocate
For the Respondent	Shri Rabin Choudhury, ACIT, Sr. DR

ORDER

Per Shri A.T.Varkey, JM

This appeal filed by assessee is against the order of Ld. CIT(A) - 6, Kolkata dated 14.08.2018 for AY 2014-15.

2. At the outset itself, it has been brought to our notice that the Ld. CIT(A) has passed an ex parte order dated 14.08.2018 though the date fixed was 13.08.2018. According to Ld. AR, the date fixed for hearing though was on 13.08.2018 only one date i.e. on 25.07.2018 was given by the Ld. CIT(A). According to Ld. AR, the partner of assessee firm who is dealing with income tax matter is a cancer patient and was not in a position to attend the hearing before the Ld. CIT(A) on 13.08.2018. Since the assessee did not appear on that date before the Ld. CIT(A), the Ld. CIT(A) passed the order ex parte, which according to Ld. AR is against the principles of Natural Justice. He, therefore, urged before the bench to set aside the order of the Ld. CIT(A). We note that the Ld. CIT(A) has passed the order ex parte without hearing the assessee. We also note that the AO has passed the assessment order u/s. 144 of the Income-tax Act, 1961 without providing sufficient opportunity of being

heard to the assessee. In such a scenario, I set aside the orders of the lower authorities and restore the matter back to the file of the AO with a direction to adjudicate the appeal on merits de novo after affording reasonable opportunity of being heard to the assessee in accordance to law. Therefore, appeal of assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 10th April, 2019

Sd/-

(A. T. Varkey)
Judicial Member

Dated: 10th April, 2019

Jd.(Sr.P.S.)

Copy of the order forwarded to:

- 1 Appellant –M/s. Chel Service Station , BTC Road, Joykrishna Bazar, P.O. Tarakeswar, Dist. Hooghly, West Bengal.
- 2 Respondent – ACIT, Circle-23(1), Hooghly.
- 3 CIT(A)-6, Kolkata. (sent through e-mail)
- 4 CIT , Kolkata
- 5 DR, Kolkata Benches, Kolkata (sent through e-mail)

/True Copy,

By order,

Assistant Registrar