

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

BEFORE SHRI S.S.GODARA, JM & DR. A.L.SAINI, AM

आयकरअपीलसं./ITA Nos.1108&1109/Kol/2018

(निर्धारणवर्ष / Assessment Years: 2009-10 & 2012-13)

Marsons Ltd. 4, Chandni Chowk Street, Kolkata-700072 Or C/o Agarwal Vishwanath & Associates 133/1/1A, S.N. Banerjee Road, Pushkal Bhawan, 3rd Floor, Kolkata-700013	Vs.	DCIT, Circle-1(1), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABCM 9906 H		
(Appellant)	..	(Respondent)

Appellant by : Shri K. M. Roy, FCA

Respondent by : Smt. Ranu Biswas, Addl. CIT

सुनवाईकीतारीख/ Date of Hearing : 31/10/2019

घोषणाकीतारीख/Date of Pronouncement : 13/11/2019

आदेश / ORDER

Per Bench:

The captioned two appeals filed by the assessee , pertaining to assessment years 2009-10 & 2012-13 respectively, are directed against the separate orders passed by the Commissioner of Income Tax (Appeal)-1, Kolkata in appeal no. 138/CIT(A)-1/2015-16 and appeal no. 668/CIT(A)/C-1(1)/2015-16, which in turn arise out of separate assessment orders passed by the Assessing Officer u/s 263 / 143(3) of the Income Tax Act, 1961 (in short the "Act") dated 14.03.2015 & 30.03.2015 respectively.

2. At the outset itself, the Id. Counsel for the assessee submitted 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 stated that in the interest of justice, another opportunity to contest the appeal before the Ld. first appellate authority may be granted to the assessee, as the Id. First appellate authority did not adjudicate issue on merits.

3. We heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id. CIT(A) and other materials available on record. We note that the Id. CIT(A) did not discuss the assessee's case on merits based on the assessment records and material available before him hence it is a violation of principle of natural justice. We are of the view that one more opportunity should be given to the assessee to plead his case before Id. CIT(A). The Id. D.R. for the revenue did not object if the matter is remitted back to the file of 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, both the appeals of the assessee are allowed.

4. In the result, the both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the Court on 13.11.2019

Sd/-
(S.S.GODARA)
न्यायिकसदस्य / JUDICIAL MEMBER

Sd/-
(A.L.SAINI)
लेखासदस्य / ACCOUNTANT MEMBER

दिनांक/ Date: 13/11/2019
(SB, Sr.PS)

Copy of the order forwarded to:

1. Marsons Ltd.
2. DCIT, Circle-1(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