

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

[Before Sri S. S. Godara, Judicial Member]

आयकर अपीलसं./I.T.A No.944/Kol/2019

(निर्धारण वर्ष / Assessment Year: 2014-15)

Srikalyani Agritech (P) Ltd. C/o Subash Agarwal & Associates, Advocates, Siddha Gibson, 1, Gibson Lane, Suite 213, 2 nd Floor, Kolkata – 700069.	Vs.	ITO, Ward-1(1), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AANCS1201M		
(Appellant)	..	(Respondent)

Appellants by : Shri Subash Agarwal, Advocate,
Respondents by : Shri Dhruvajyoti Ray, JCIT, Sr. DR

आयकर अपीलसं./I.T.A No.945/Kol/2019

(निर्धारण वर्ष / Assessment Year: 2010-11)

M/s K. C. Texofin Pvt. Ltd. 1 Crooked Lane, Esplanade, W.B	Vs.	ITO, Ward-3(1), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABCK6409P		
(Appellant)	..	(Respondent)

Appellants by : Shri Ashok Kr. Tulsiyan, FCA
Respondents by : Shri Dhruvajyoti Ray, JCIT, Sr. DR

आयकर अपीलसं./I.T.A No.946/Kol/2019

(निर्धारण वर्ष / Assessment Year: 2010-11)

M/s Emerald Trade Link Pvt. Ltd. 1 Crooked Lane, Ground Floor, Room No.G-02, Esplanade, W.B.	Vs.	ITO, Ward-3(1), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABCE4173E		
(Appellant)	..	(Respondent)

Appellants by : Shri Ashok Kr. Tulsian, FCA
Respondents by : Shri Dhruvajyoti Ray, JCIT, Sr. DR

आयकर अपीलसं./I.T.A No.947/Kol/2019
(निर्धारण वर्ष / Assessment Year: 2010-11)

Purv Polyfilms Pvt. Ltd. C/o Sanket Agarwal-Director, Flat No.C-2, 602, VIP Karishma Apartment, Vidhan Sabha Road, Shankar Nagar, Raipur(C.G.)-492001	Vs.	ACIT(OSD), Ward-1(4), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAMCS8926N		
(Appellant)	..	(Respondent)

Appellants by : Shri Praveen Khandewal, A/R.
Respondents by : Shri Dhruvajyoti Ray, JCIT, Sr. DR

आयकर अपीलसं./I.T.A No.948/Kol/2019
(निर्धारण वर्ष / Assessment Year: 2010-11)

S.K.G. Pulp Paper Mills Pvt. Ltd. 88, Basantalal Saha Road, New Alipore, Kolkata – 700053.	Vs.	ACIT, Cir-10(2), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAMCS6766L		
(Appellant)	..	(Respondent)

Appellants by : None
Respondents by : Shri Dhruvajyoti Ray, JCIT, Sr. DR

आयकर अपीलसं./I.T.A No.1436/Kol/2019
(निर्धारण वर्ष / Assessment Year: 2009-10)

M/s Karishma Sales Pvt. Ltd. Shop No.1, 9/1, R.B.C Road, DumDum, Kolkata.	Vs.	ITO, Ward-9(4), Kolkata
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स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AACCK5702A		
(Appellant)	..	(Respondent)

Appellants by : None

Respondents by : Shri Dhruvajyoti Ray, JCIT, Sr. DR

सुनवाई की तारीख/ Date of Hearing : 11/11/2019

घोषणा की तारीख/Date of Pronouncement : 15/11/2019

आदेश / ORDER

Per Shri S. S. Godara:

These six(6) assessees have filed their instant as many appeals involving corresponding assessment year(s) 2014-15, 2010-11(in 2nd to 5th cases) and 2009-10 in last case; against the Commissioner of Income Tax (Appeals)'s separate order(s) affirming the Assessing Officer's action making various disallowances/additions in issue involving proceedings u/s 143(3) in 1st and 5th cases, u/s 147 r.w.s. 143(3) in 2nd to 4th cases and u/s 144 in the last case; of the Income Tax Act, 1961 (in short 'the Act'); respectively.

Heard assessees as well as the Revenue. Case files perused.

2. I notice at the outset that ITA Nos.944 & 948/Kol/2019 in case of Srikalyani Agritech (P) Ltd., S.K.G. Pulp Paper Mills Pvt. Ltd. suffer from 15 & 3 days' delay in filing respectively. These two assessees have also filed respective condonation petitions attributing reasons of delay on account of communication gap and non-compilation of necessary records coupled with other miscellaneous difficulties. The Revenue is fair enough in not rebutting all these averments. I therefore condone the impugned delay in filing of two appeals ITA Nos.944 & 948/Kol/2019. The same are taken up for adjudication on merits.

3. Coming to various issues raised in all these six appeals, I notice from a combined perusal of CIT(A)'s order(s) under challenge that they have been passed ex parte against the assessees. Learned Departmental Representative strongly supported both the lower authorities' action in all cases that since the assessees had not appeared in the lower appellate proceedings, the assessments under challenge making various disallowances/additions have been rightly affirmed.

4. Case files suggest that although the CIT(A)'order(s) has adverted to merits of the case(s), take for instance, the first appeal ITA No.944/Kol/2019, the fact also remains that the assessee therein Srikalyani Agritech (P) Ltd. could not appear on the corresponding last day of hearing on 04.01.2019. The CIT(A) also heard the said case on 17.01.2019 and 30.1.2019. The factual position is not different in all the remaining file cases as well. It further transpires that the CIT(A) has nowhere dealt with assessee(s) detailed explanation tendered before the Assessing Officer. I therefore deem it appropriate in these facts and circumstances that larger interest of justice would be met in case the CIT(A) decides all the cases afresh as contemplated u/s 250(6) of the Act requiring points of determination followed by a detailed adjudication within three effective opportunities of hearing. I restore all these six cases back to the CIT(A) accordingly.

5. These assessees' appeals are allowed for statistical purposes. A copy of this common order be placed in the respective case files.

Order is pronounced in the open court on 15.11.2019.

Sd/-
(S. S. Godara)
JUDICIAL MEMBER

कोलकाता /Kolkata;
दिनांक/ Date: 15/11/2019
(RS, Sr.PS)

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. The Appellants - (i) Srikalyani Agritech (P) Ltd.,
(ii) M/s K C Texofin Pvt. Ltd.,
(iii) M/s Emerald Trade Link Pvt. Ltd.,
(iv) Purv Polyfilms Pvt. Ltd.,
(v) S.K.G. Pulp Paper Mills Pvt. Ltd.,
(vi) M/s Karishma Sales Pvt. Ltd.
2. The Respondents- (i) ITO, Ward-1(1), Kolkata,
(ii) ITO, Ward-3(1), Kolkata,
(iii) ACIT(OSD), Ward-1(4), Kolkata,
(iv) ACIT, Cir-10(2), Kolkata,
(v) ITO, Ward-9(4), Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata [sent through email]
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata [sent through email]
6. गार्डफाईल / Guard file.
सत्यापितप्रति

True Copy

By Order

Assistant Registrar,
I.T.A.T, Kolkata Benches,
Kolkata.