

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

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

आयकरअपीलसं./ITA No.151/Kol/2018

(निर्धारणवर्ष / Assessment Year: 2012-13)

M/s Accurate Shoppers Pvt. Ltd.	Vs.	ITO, Technical-2, Kolkata
5/1, Clive Row, 4th Floor, Room No. 125, Kolkata-700001		
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAICA 9908 Q		
(Appellant)	..	(Respondent)

Appellant by : None

Respondent by : Shri Radhey Shyam, CIT

सुनवाईकीतारीख/ Date of Hearing : 31/10/2019

घोषणाकीतारीख/Date of Pronouncement : 31/12/2019

आदेश / ORDER

Per Bench:

The captioned appeal filed by the assessee , pertaining to assessment year 2012-13, is directed against the order passed by the Commissioner of Income Tax (Appeal)-13, Kolkata in appeal no. 144/CIT(A)-13/Tech-2/Kol/2016-17, which in turn arises out of assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (in short the "Act") dated 23/03/2015.

2. At the time of hearing none appeared on behalf of assessee in spite of issuance of notice for hearing more than one occasion and Ld. Departmental Representative(DR), was present for the appellant Revenue. In the absence of any appearance by the assessee, the appeal is being disposed of *ex parte qua* the

assessee, after hearing Ld. DR for the Revenue on merits in terms of Rule 24 of the Income Tax Appellate, Tribunal, Rules, 1963.

3. We heard the ld. D.R. for the revenue and perused the material available on record. We note that it is crystal clear that the ld. CIT(A) has not considered the assessment records and as well as assessment order to adjudicate the issue. We also note that the ld. CIT(A) did not discuss the assessee's case on merits based on the material available before him, he only stated that "Assessing Officer has already discussed the issue in detail", hence it is a violation of principle of natural justice. The Ld. CIT(A) did not discuss the submission filed by the A.R. of the assessee. 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. 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 ld. CIT(A) and remit the matter back to the file of the ld. 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 31.12.2019

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

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

दिनांक/ Date: 31/12/2019
(SB, Sr.PS)

Copy of the order forwarded to:

1. M/s Accurate Shoppers Pvt. Ltd.
2. ITO, Technical-2, Kolkata
3. C.I.T(A)-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.
4. C.I.T.- Kolkata.

True copy

By Order

Assistant Registrar
ITAT, Kolkata Benches