

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

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

**आयकरअपीलसं./ITA No.339/Kol/2018**

**(निर्धारणवर्ष / Assessment Year:2013-14)**

<b>Allmost Dealers Pvt. Ltd.</b>	<b>Vs.</b>	<b>DCIT, Circle-4(2), Kolkata</b>
<b>8, Mandir Street, Ground Floor, Kolkata-700073</b>		
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAKCA 2521 P</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by :Shri Subash Agarwal, Advocate

Respondent by :Shri Supriyo Pal, JCIT Sr. DR

सुनवाईकीतारीख/ Date of Hearing : 18/12/2019

घोषणाकीतारीख/Date of Pronouncement : 23/01/2020

**आदेश / ORDER**

**Per Dr. A.L. Saini, AM:**

The captioned appeal filed by the assessee , pertaining to assessment year 2013-14, is directed against the order passed by the Commissioner of Income Tax (Appeal)-13, Kolkata in appeal no. 171/CIT(A)-13/Cir-4(2)/Kol/2016-17, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (in short the 'Act') dated 25/02/2016.

2. At the outset itself, the Id. Counsel for the assessee submitted that the Id. CIT(A) did not take remand report from Assessing Officer to adjudicate the issue, which is against the principles of natural justice. Since the remand report was not

taken by Id. CIT(A) therefore assessee could not plead his case properly. Therefore, one more opportunity should be given to the assessee to plead his case before the Id. CIT(A). Hence Id. Counsel prayed that matter may be remitted back to the file of Id. CIT(A) to adjudicate the issue afresh. The Id. DR for the Revenue did not have any objection if the matter is remitted back to the file of Id. CIT(A).

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 material available on record. We note that during the appellate proceedings, the assessee submitted before Id. CIT(A) that during the assessment proceedings, the assessee produced documents which were not entertained by Id. A.O. The relevant para which is quoted in the appellate order is being reproduced below (to the extent applicable for our discussion):

*“ 5. That the appellant has filed a written submission along with the documents.*

*The documents were produced in course of hearing but not entertained by the Id. A.O. Hence the same are required to be accepted u/s 46A of the I.T. Rules, 1962.”*

We note that during the appellate proceedings, the assessee submitted documents which were accepted by Id. CIT(A) under Rule 46A of the I.T. Rules, therefore Id. CIT(A) ought to have called remand report in respect of these documents, which has failed to do so. We note that it is settled law that principles of natural justice and fair play require that the affected party should be granted sufficient opportunity of being heard to plead 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 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, 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 23.01.2020**

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

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

कोलकाता /Kolkata;

दिनांक/ Date:23/01/2020

(SB, Sr.PS)

Copy of the order forwarded to:

1. Allmost Dealers Pvt.. Ltd.
2. DCIT, Circle-4(2), 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