

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

ITA No.2341/Kol/2019
Assessment Year: 2010-11

M/s. Malda Metal Pvt. Ltd. (PAN: AADCM1451F)	Vs.	Income-tax Officer, Murshidabad
Appellant		Respondent
Date of Hearing	21.01.2020	
Date of Pronouncement	29.01.2020	
For the Appellant	None	
For the Respondent	Shri Jayanta Khanra, JCIT, Sr. DR	

ORDER

This is an appeal preferred by the assessee against the order of Ld. CIT(A)-12, Kolkata dated 13-03-2019 for the assessment year 2010-11.

2. None appeared for the assessee. However, on a perusal of the impugned order of Ld. CIT(A) it is noted that it is effectively a two lines order. The Ld. CIT(A) has noted that though the appeal was fixed several times assessee had filed only two pages submission dated 14.02.2019 and did not care to appear before him so he has passed the order as under:

“2.3(a) perusal of the statements of the fact and the grounds of appeal does not help me to appreciate the merits of grounds raised by the appellant against the assessment order u/s. 143(3) of the I. T. Act.

2.3(b) the assessee has simply harped on alleged denial of opportunity by the AO it has not attempted to show how the differences treated un-reconciled by the AO, was in fact reconciled as claimed by the assessee. Mere submission that too of general in nature cannot be taken as reconciliation or explanation. I do not accept that the differences were explained.”

3. From a reading of the aforesaid order of the Ld. CIT(A) it reveals that the order is a non-speaking order and the assessee other than filing two pages written statement has not preferred to assist the Ld. CIT(A) while adjudicating the appeal. From a reading of the impugned order, it reveals that the written submission of assessee in no way assisted the Ld. CIT(A) to appreciate the merits of the appeal and that the assessee failed to reconcile the difference pointed out by the AO. In such a scenario, the Ld. CIT(A) ought to have given

opportunity to assessee to explain before him the merits and asked for materials to substantiate rather than dismissing the appeal. Therefore, I am of the opinion that no proper opportunity was given to assessee while adjudicating the appeal and taking into consideration the fact that the impugned order has been passed without hearing the assessee for the interest of justice and fair play, I am inclined to set aside the order of the Ld. CIT(A) and remand the matter back to the file of the Ld. CIT(A) for fresh adjudication of the appeal subject to the assessee depositing Rs.5000/- to the Prime Minister's Relief Fund since assessee failed to appear before the Ld. CIT(A) despite giving several opportunities. Further, the assessee is directed to diligently participate in the appellate proceedings before the Ld. CIT(A) without fail.

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

Order is pronounced in the open court on 29th January, 2020.

Sd/-
(Aby. T. Varkey)
Judicial Member

Dated :29th January, 2020

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – M/s. Malda Metal Pvt. Ltd., Ghorsala, Umarpur, Murshidabad-742102
- 2 Respondent – ITO, Murshidabad
3. CIT(A)-12, Kolkata (sent through e-mail)
4. CIT- , Kolkata.
5. DR, ITAT, Kolkata. (sent through e-mail)

By order,

/True Copy,

Assistant Registrar