

IN THE INCOME TAX APPELLATE TRIBUNAL “B”, BENCH KOLKATA

BEFORE SHRI A.T. VARKEY, JM &DR. A.L.SAINI, AM

आयकरअपीलसं./ITA No.21/Kol/2019

(निर्धारणवर्ष / Assessment Year:2012-13)

Bharat Scientific House Firm	Vs.	ACIT, Circle-31, Kolkata
1/2C, Fordyce Lane, Kolkata-700014.		
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AALFB 2845 D		
(Appellant)	..	(Respondent)

Appellant by :None

Respondent by :Shri Vijay Shankar, CIT

सुनवाईकीतारीख/ Date of Hearing : 09/01/2020

घोषणाकीतारीख/Date of Pronouncement : 29/01/2020

आदेश / O R D E R

Per Dr. A.L. Saini, AM:

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)-9, Kolkata in appeal no. 36/CIT(A)-9/Cir-31/2015-16/Kol, 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 12/03/2015.

2. We have heard Id DR for the Revenue and perused the material available on record. At the time of hearing none appeared on behalf of assessee in spite of issuance of notice for hearing. At the outset itself, we note that assessee’s main grievances which are mentioned in ground nos 1 and 2 raised by him, is that when the appeal was scheduled for hearing on 30.01.2018, at 11.30 A.M. the Id. CIT(A) was absent in his office. The A.R. of the assessee appeared on 30.01.2018 in the office of Id. CIT(A) and filed written submission also. These written submissions

were not considered while adjudicating the assessee's appeal; which is against the principle of natural justice. Ground nos. 1 and 2 raised by the assessee are reproduced below:

1. For that during the appeal hearing the Advocate of the assessee submitted written submission with papers and particulars and moreover the appellant authority had sufficient time before final order to call the assessee to get clarified everything and addition of every amount is arbitrary, illegal and in law and should therefore be allowed.

2. The appellate authority adjourned the appeal proceedings on 30.01.2018 at 11.30 a.m. he was absent on the day and time and Mr. D.P. Bagchi without calling the assessee to submit the Books of accounts and documents, the order of appeal, dismissal of the appeal is arbitrary, illegal and void in law.

3. From the grievances raised in the grounds of appeal as mentioned above, it is implied that assessee is aggrieved by the action of Id. CIT(A) for not giving proper opportunity to the assessee and has passed the order without even considering the written submission filed by the assessee. In such a scenario, it cannot be said that the Id. CIT(A) has passed the order after giving the proper opportunity of hearing which is essential for adjudicating the appeal. Therefore, 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. 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 29.01.2020

Sd/-
(A.T. VARKEY)
न्यायिकसदस्य / JUDICIAL MEMBER

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

कोलकाता /Kolkata;

दिनांक/ Date: 29/01/2020

(SB, Sr.PS)

Copy of the order forwarded to:

1. Bharat Scientific House Firm
2. ACIT, Circle-31, 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