

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

**ITA No.2377/Kol/2019**  
**Assessment Year: 2010-11**

M/s. National Construction (PAN: AAEFN6563H)	Vs.	Income Tax officer, Wd-2(2), Burdwan
Appellant		Respondent
Date of Hearing		23.01.2020
Date of Pronouncement		05.02.2020
For the Appellant		Shri Heramba Narayan Datta, Advocate
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), Burdwan dated 18-06-2019 for the assessment year 2010-11.

2. At the outset itself, Ld. Counsel for the assessee submitted that the impugned order of the Ld. CIT(A) is an ex parte order without hearing the assessee. He also submitted that the hearing of the appeal before the Ld. CIT(A) was fixed on three occasions. However, no notice of hearing was received by the assessee in respect of hearing fixed. Hence, he urged before the bench to set aside the order of Ld. CIT(A) and restore the matter to his file for fresh adjudication after giving proper opportunity of hearing to the assessee. Ld. DR opposed the prayer of the assessee and urged before the bench not to interfere in the order passed by the Ld. CIT(A). It is noted that the impugned order is an ex parte order without hearing the assessee. No proof of service of notice was also mentioned in the order of the Ld. CIT(A). Since the impugned order is an ex parte order without hearing the assessee, for the interest of Natural Justice and fair play, I set aside the order of the Ld. CIT(A) and remand the appeal back to the file of the Ld. CIT(A) to decide the appeal on merits after hearing the Ld. AR of the assessee and the assessee is directed to be diligent in future and appear before the Ld. CIT(A) without fail.

3. In the result, the appeal of assessee is allowed for statistical purposes.  
Order is pronounced in the open court on 5<sup>th</sup> February, 2020.

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

Dated : 5th February, 2020

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – M/s. National Construction, represented by its partners Manas Kumar Samanta & Sadhan Kumar Samanta, Dewandighi, Burdwan-713101
- 2 Respondent – ITO, Ward-2(2), Burdwan.
3. CIT(A), Burdwan (sent through e-mail)
4. CIT- , Kolkata.
5. DR, ITAT, Kolkata. (sent through e-mail)

By order,

/True Copy,

Assistant Registrar