

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

ITA No.1745/Kol/2019
Assessment Year: 2015-16

Shazad Chandra Jhunjunwala (PAN: AEDPJ8850J)	Vs.	Income Tax officer, Wd-36(2), Kolkata
Appellant		Respondent
Date of Hearing		03.02.2020
Date of Pronouncement		20.03.2020
For the Appellant		Shri Girdhar Lal Harlalka, AR
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)-10, Kolkata dated 30-05-2019 (wrongly typed as 30.05.2018) for the assessment year 2015-16.

2. At the outset itself, the Ld. Counsel for the assessee submitted that the Ld. CIT(A) passed the impugned order ex parte without providing reasonable opportunity to the assessee which according to him, was in gross violation of the principles of Natural Justice. So, he urged before the bench to set aside the order of Ld. CIT(A) and restore the matter back to his file for fresh adjudication after providing opportunity of hearing to the assessee. IT is noted from perusal of para 3 of the impugned order that the Ld. CIT(A) has passed the order ex parte by observing that the hearing in this case was initially fixed on 02.04.2019, but on the appointed date the Ld. AR requested for an adjournment and the same was granted. Then again the case was re-fixed for 20.04.2019 and again another adjournment was sought, so, the case was adjourned to 15.05.2019. On that day also the Ld. AR did not appear before the Ld. CIT(A). Under the said circumstances, the Ld. CIT(A) decided the appeal on merits on the basis of material available on record. This action of Ld. CIT(A) to dismiss the appeal without hearing the assessee has been assailed before me. According to me, since the order of Ld. CIT(A) is an ex parte order without hearing the assessee, for the interest of Natural Justice and fair play, I am inclined to 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 pass a speaking order. The assessee is also 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 20th March, 2020.

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

Dated : 20th March, 2020

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Shri Shazad Chandra Jhunjhunwala, Martin Burn House, Room No. 06, 1, R. N. Mukherjee Road, Dalhousie, Kolkata-700 001.
2. Respondent – ITO, Ward-36(2), Kolkata.
3. CIT(A)-10, Kolkata. (sent through e-mail)
4. CIT- , Kolkata.
5. DR, ITAT, Kolkata. (sent through e-mail)

By order,

/True Copy,

Assistant Registrar