

आयकर अपीलीय अधीकरण, न्यायपीठ – “A” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
(समक्ष) Before श्री जे. सुधाकर रेड्डी, लेखा सदस्य एवं/and श्री ऐ. टी. वर्की, न्यायीक सदस्य)
[Before Shri J. Sudhakar Reddy, AM & Shri A. T. Varkey, JM]

I.T.A. Nos. 1487 to 1489/Kol/2017
Assessment Years: 1999-2000, 2000-01 & 2004-05

M/s. Erstwhile Ratendon Investment & Holdings Ltd. since merged with JCT Ltd. (PAN: AABCR4232R)	Vs.	Assistant Commissioner of Income-tax, Circle-4(1), Kolkata.
Appellant		Respondent

Date of Hearing	04.03.2020
Date of Pronouncement	29.05.2020
For the Appellant	Shri B. D. Ghosh, CA
For the Respondent	Shri Dhruvhajyoti Roy, JCIT

ORDER

Per Shri A.T.Varkey, JM

All these appeals preferred by the assessee are against the separate orders of Ld. CIT(A)-2, Kolkata dated 10.04.2017 (for AY 1999-2000), dated 19.04.2017 (for AY 2000-01) and dated 11.04.2017 (for AY 2004-05).

2. First of all we will deal with the assessee's appeals for AYs 1999-2000 and 2000-01. At the outset, it was brought to our notice by the Ld. AR of the assessee that the Ld. CIT(A) has decided both the appeals by passing a cryptic order of four (4) pages which contains only the ground of appeal, additional grounds of appeal and we note that the Ld. CIT(A) while adjudicating ground nos. 1, 2, 3,4 and 5 has held as under:

“I have considered the submissions of the authorized representative of the appellant as well as the assessment order framed in the light of the materials available on record before the assessing officer during the assessment proceedings. The AO has already discussed the issue in details while passing the order. I agree with the view as taken by

the AO. Accordingly, the order or the AO is upheld and these grounds of appeals are dismissed.

In respect of ground no. 5, he directed the AO to recomputed the interest as per relevant provisions of the Act and allowed the same for statistical purposes.”

3. Therefore, according to Ld. AR, the Ld. CIT(A) has passed the order without application of mind and without passing a speaking order which makes the impugned order bad in the eyes of law.

4. After hearing both the parties, we note that the Ld. CIT(A) while passing the first appellate order has not given any reason for dismissing the grounds raised by the assessee. The Ld. CIT(A) ought to have decided the grounds of appeal ground wise by discussing the facts and law raised by the assessee, which unfortunately the Ld. CIT(A) has failed to do. The reason justifying upholding the decision of the AO in respect of all the grounds of appeal from ground nos. 1 to 5 has not been spelt out. It should be kept in mind that reason is the soul of any decision and is the heart-beat of every conclusion, especially that of judicial/quasi judicial authority like CIT(A) or A.O. It has to be kept in mind that the Ld. CIT(A) who is the first appellate authority is bound to give reason for his conclusion. It is the duty and obligation on the part of the Ld. CIT(A) to record reasons while disposing of the appeal. The reasons have to be disclosed and we insisted upon it since it is one of the fundamental of sound administration of justice delivery system to make it known that there had been proper and due application of mind to the issue by the Ld. CIT(A) and it is also an essential requisite of the principles of natural justice. Reason introduces clarity in an order and without the same, the order become lifeless since it is the heart beat of every conclusion. Reasons substitutes subjectivity with objectivity. The absence of reasons renders an order indefensible/ unsustainable particularly when the order is subject to further challenge before a higher forum. And every judicial / quasi judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making as opposed to arbitrary and whimsical action. The person who is adversely affected must know why his appeal /application has been rejected. For the aforesaid observation we rely upon the Hon'ble Supreme Court observation in the State

of Orissa vs Dhaniram Luhir AIR 2004 (SC) 1794. Therefore, the omission on the part of Id. CIT(A) to render reasons while adjudicating the Ground Nos.1 to 5 is treated as serious defect and non adjudication of additional ground i.e. legal issue shows total non-application of mind. Therefore, we direct the Id. CIT(A) to pass a reasoned order while disposing of all the grounds raised before him after hearing the assessee and in accordance with law.

5. Coming to AY 2004-05, we note that the Ld. CIT(A) has not given any reason or have passed a speaking order while disposing of ground nos. 1 to 5 and the additional grounds raised before him. For AY 2004-05, the Ld. CIT(A) has held as under:

"I have considered the submissions of the authorized representative of the appellant as well as the assessment order framed in the light of the materials available on record before the assessing officer during the assessment proceedings. The AO has already discussed the issue in details while passing the order.

The AR of the appellate while raising the addition grounds of appeal has mentioned that the "..... order under section 147/153(3) is not legally sustainable....." In this regards, it is pertinent to mentioned that the AO has passed the order only u/s 143(3) and no notice u/s. 147 was issued in this case. This shows that the AR of the appellate is not so serious in the matter.

I agree with the view as taken by the AO. Accordingly, the order of the AO is upheld and these grounds of appeals are dismissed."

Since the Ld. CIT(A) has not given any reason for his decision, we are inclined to set aside all the three (3) impugned orders of the Ld. CIT(A) and direct him to pass a speaking order after affording reasonable opportunity of being heard to the assessee.

6. In the result, all the appeals of the assessee are allowed for statistical purposes.

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

Sd/-
(J. Sudhakar Reddy)
Accountant Member

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

Dated : 29th May, 2020

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – M/s. Erstwhile Ratendon Investment & Holdings Ltd. since merged with JCT Ltd., 18, Monilal Saha (Mott) Lane, 2nd floor, Kolkata-700 013.
- 2 Respondent – ACIT Circle-4(1), Kolkata.
3. The CIT(A)-2, Kolkata (sent through e-mail)
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

/True Copy,

By order,

Asstt. Registrar.