

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

BEFORE SHRI S.S.GODARA, JM & DR. A.L.SAINI, AM

आयकरअपीलसं./ITA No.451/Kol/2019

(निर्धारणवर्ष / Assessment Year: 2014-15)

Shri Barik Biswas Sangrampur, Basirhat, 24 Pgs(N), West Bengal-743422	Vs.	ACIT, Circle-49(1), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AHYPB 7479 F		
(Appellant)	..	(Respondent)

Appellant by : Ms. Sikha Agarwal, CA

Respondent by : Shri Vijay Shankar, CIT

सुनवाईकीतारीख/ Date of Hearing : 27/02/2020

घोषणाकीतारीख/Date of Pronouncement : 17/06/2020

आदेश / O R D E R

Per Dr. A.L. Saini, AM:

The captioned appeal filed by the assessee, pertaining to assessment year 2014-15, is directed against the order passed by the Commissioner of Income Tax (Appeal)-15, Kolkata, in appeal no. 263/CIT(A)-15/16-17/Cir-4991/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 29/12/2016.

2. Although in this appeal, the assessee has raised multiple grounds of appeal, but at the time of hearing, the solitary grievance of the assessee has been confined to the ground no. 1 only which reads as follows:

1. That the ld. CIT(A) was wrong in passing ex-parte order dt. 31.01.2019 without giving proper opportunity of being heard to assessee. No notice of hearing was served on assessee on time, however the same was served after few days of hearing to the assessee and when assessee approached to ld. CIT(A) to give some time to present the case, but the ld. CIT(A) refused and pass the ex-parte order. Thus, the ex-parte order is a denial of Natural Justice.

3. At the outset itself, the ld. Counsel for the assessee submitted that the order passed by the ld. CIT(A), is ex parte order and assessee did not get opportunity to present his case before the ld. CIT(A) therefore another opportunity should be given to the assessee to plead his case before the ld. CIT(A). On the other hand, the ld. DR for the revenue did not have any objection if the matter is remitted back to the file of ld. CIT(A).

4. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the ld CIT(A) and other materials available on record. We note that the order passed by the ld. CIT(A), is ex parte order, and the ld. CIT(A) did not consider the assessment records and assessment order to adjudicate the issue on merits. Therefore, we are of the view that one more opportunity should be given to the assessee to plead his case before the ld. CIT(A). Therefore, we set aside the order of Ld. CIT(A) and remit this issue back to the file of Ld. CIT(A) to adjudicate the issue fresh.

5. Before parting, it is noted that the order is being pronounced after 90 days of hearing. However, taking note of the extraordinary situation in the light of the Covid-19 pandemic and lockdown, the period of lockdown days need to be

excluded. For coming to such a conclusion, we rely upon the decision of the Co-ordinate Bench of the Mumbai Tribunal in the case of DCIJT vs JCB Limited in ITA No 6264/Mum/2018 and ITA No. 6103/Mum/2018 for A.Y. 2013-14 order dated 14.05.2020.

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

Order pronounced in the Court on 17.06.2020

Sd/-
(S.S.GODARA)
न्यायिकसदस्य / JUDICIAL MEMBER

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

कोलकाता /Kolkata;

दिनांक/ Date: 17/06/2020

(SB, Sr.PS)

Copy of the order forwarded to:

1. Shri Barik Biswas
2. ACIT, Circle-49(1), 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