

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA**

**(Before Sri J. Sudhakar Reddy, Hon'ble Accountant Member & Sri Aby T. Varkey, Hon'ble Judicial Member)
[VIRTUAL COURT HEARING]**

ITA No. 63/Kol/2020

Assessment Years: 2009-10

ITA No. 64/Kol/2020

Assessment Years: 2011-12

ITA No. 65/Kol/2020

Assessment Years: 2013-14

ITA No. 66/Kol/2020

Assessment Years: 2014-15

Binod Kumar Toshniwal*.....*Appellant

Green Vista

Flat No. 101

Atghara

Kolkata - 700 136

[PAN : AFDPT 0326 E]

Vs.

Income Tax Officer, Ward-37(2), Kolkata*.....*Respondent

Appearances by:

Shri Akkal Dudhewala, A/R, appeared on behalf of the assessee.

Shri Supriyo Pal, Addl. CIT D/R, appearing on behalf of the Revenue.

Date of concluding the hearing : July 21st, 2020

Date of pronouncing the order : August 19th, 2020

ORDER

Per J. Sudhakar Reddy, AM :-

All these appeals are filed by the assessee and are directed against the order of the Learned Commissioner of Income Tax (Appeals) – 11, Kolkata, (hereinafter the "ld.CIT(A)"), passed u/s. 250 of the Income Tax Act, 1961 (the 'Act'), dt. 29/09/2019, for the Assessment Year 2009-10.

2. At the outset we find that there is a delay of 41 (forty one) days in filing of this appeal by the assessee. After perusing the petition for condonation, we are convinced that the assessee was prevented by sufficient cause from filing the appeal in time. Hence the delay is condoned and the appeal is admitted.

3. Heard rival contentions. We find that the ld. CIT(A) has passed an *ex-parte* order. The ld. Counsel for the assessee has filed an affidavit dt. 21/07/2020 mentioning that due to non-receipt of notices of hearing, it could not appear before the ld. First Appellate Authority, for hearing. He submits that, in the Memo of Appeal filed in Form 35, the

address for sending notice of hearing was mentioned as Green Vista, Flat No.101, Atghara, Kolkata – 700136. Subsequently, the assessee had shifted his place of residence in the month of December 2018 and is currently residing at Kshitij Apartment, B4, 10th Floor, Block-B, 130 R.B.C. Road, Golpark, South Dum Dum, Kolkata – 700 028. The Id. Counsel for the assessee pleaded that the appeal may be set aside to the file of the Id. CIT(A) for fresh adjudication on merits.

3.1. The Id. D/R argued that violations of principles of natural justices has taken place during the proceedings before the Id. CIT(A) and hence it would be proper to set aside the matter to the file of the Id. CIT(A), for fresh adjudication, after giving the assessee opportunity of being heard.

4. After hearing rival contentions, we find that the Id. CIT(A) has passed an *ex-parte* order. The assessee, due to reasonable cause could not effectively represent itself before the Id. CIT(A). Hence we are of the considered opinion that this case has to be remitted to the file of the Id. CIT(A) for fresh adjudication, in accordance with law as there is violation of principles of natural justice. Accordingly, we set aside the matter to the file of the Id. CIT(A) for fresh adjudication, in accordance with law, after giving the assessee proper and sufficient opportunity of being heard. The assessee is directed to furnish the present address of correspondence to the office of the Id. CIT(A).

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

Kolkata, the 19th day of August, 2020.

Sd/-
[Aby T. Varkey]
 Judicial Member

Sd/-
[J. Sudhakar Reddy]
 Accountant Member

Dated : 19.08.2020
 {SC SPS}

Copy of the order forwarded to:

1. Binod Kumar Toshniwal
Green Vista
Flat No. 101
Atghara
Kolkata - 700 136

2. Income Tax Officer, Ward-37(2), Kolkata

3. CIT(A)-
4. CIT- ,
5. CIT(DR), Kolkata Benches, Kolkata.

True copy
By order

Assistant Registrar
ITAT, Kolkata Benches