

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'C' BENCH, KOLKATA  
(Virtual Court)**

**(Before Sri J. Sudhakar Reddy, Accountant Member & Sri Aby T. Varkey, Judicial Member)**

**I.T.A. Nos. 454 & 455/Kol/2020  
Assessment Years: 2010-11 & 2012-13**

***Unitech Water Technologies Pvt. Ltd.....Appellant***  
***[PAN: AAACU 9202 H]***

***Vs.***

***DCIT, Circle-10(2), Kolkata.....Respondent***

**Appearances by:**

*Sh. Soumitra Choudhury &*

*Sh. Jaydeep Chakraborty, appeared on behalf of the Assessee.*

*Sh. Jayanta Khanra, JCIT, appeared on behalf of the Revenue.*

Date of concluding the hearing : September 4<sup>th</sup>, 2020

Date of pronouncing the order : September 16<sup>th</sup>, 2020

**ORDER**

**Per J. Sudhakar Reddy, AM:**

Both these appeals filed by the assessee are directed against separate orders of the Commissioner of Income Tax (Appeals)-4, Kolkata [hereinafter ld. 'CIT(A)' for short] dated 16.02.2018 passed u/s 250 of the Income Tax Act, 1961 ('the Act' for short) for AYs 2010-11 & 2012-13.

2. The ld. Counsel for the assessee submitted that notice of hearing from the ld. CIT(A) was not served on the assessee, as the interest was wrongly stated. He further submitted that the AO also did not give adequate opportunity to the assessee while passing the order u/s 263 r.w.s. 143(3) of the Act. He pointed out that, the order u/s 263 of the Act was passed on 25.03.2015 and the AO completed the re-assessment on 03.07.2015 without giving adequate opportunity to the assessee. He further submitted that the assessee's factory was closed due to economic reasons and under these circumstances the matter may be restored to the file of the AO for fresh adjudication in accordance with law.

3. The ld. DR, on the other hand, submitted that the violation of the principles of natural justice had occurred at the stage of the ld. CIT(A). On a query from the Bench, the ld. DR submitted that both the appeal may be restored to the file of the AO for fresh adjudication in accordance with law as adequate opportunity was not granted to the assessee.

4. In view of the above discussion and on perusal of the orders of the authorities below we find that the principles of natural justice was violated. The ld. CIT(A) has passed an *ex-parte* order without disposing off this issue on merits. The AO has also recorded that no explanation was filed by the assessee. Under these circumstances we restore both these appeals to the file of the AO for fresh adjudication in accordance with law.

5. In the result, both these appeals filed by the assessee are allowed for statistical purposes.

***Kolkata, the 16<sup>th</sup> September, 2020.***

Sd/-  
[Aby T. Varkey]  
Judicial Member

Dated: 16.09.2020  
*Bidhan*

Sd/-  
[J. Sudhakar Reddy]  
Accountant Member

*Copy of the order forwarded to:*

1. ***Unitech Water Technologies Pvt. Ltd., 32/1, Gariahat Road (South), Kailash Bhawan, 2<sup>nd</sup> Floor, Kolkata-700 031.***
2. ***DCIT, Circle-10(2), Kolkata.***
3. CIT(A)-4, Kolkata. (sent through mail)
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata. (sent through mail)

True copy

By order

Assistant Registrar  
ITAT, Kolkata Benches