

आयकर अपीलीय अधीकरण, न्यायपीठ – “ए” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “Virtual Court A” KOLKATA

Before **Shri J.Sudhakar Reddy, Accountant Member** and
Shri S.S.Godara, Judicial Member

ITA No.1497/Kol/2019
Assessment Year: 2012-13

M/s Ustav Fashion Pvt. Ltd., DN-51, Merlin Infinite, Room No. 1211- 1213 12 th Floor, Sector-V, Salt Lake-700091 [PAN No.AABCU 0072 E]	बनाम / V/s.	Income Tax Officer, Ward-59(4) (TDS), Kolkata 10B, Middleton Row, Kolkata-71
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri Arihant Jain, CA
प्रत्यर्थी की ओर से/By Respondent	Shri Dhruvajyoti Ray, JCIT-DR
सुनवाई की तारीख/Date of Hearing	10-09-2020
घोषणा की तारीख/Date of Pronouncement	23-09-2020

आदेश /O R D E R

PER S.S.Godara, Judicial Member:-

This assessee’s appeal for assessment year 2012-13 arises against the Commissioner of Income Tax (Appeals)-24, Kolkata’s order dated 28.12.2018 passed in case No.1284/CIT(A)-24/Kol/2014-15 involving proceedings 201(1) r.w.s.201(1A) of the Income Tax Act, 1961; in short ‘the Act’.

Heard both the parties. Case file(s) perused.

2. We notice at the outset that the CIT(A)’s order under challenge affirming the Assessing Officer’s action treating the assessee in default for not having deducted TDS on various payments made to the tune of ₹14,36,524/-; has been passed *ex parte*. Learned counsel’s only case before us during the course of hearing is that the assessee’s lower appeal had been transferred to CIT(A)-24 Kolkata without any

corresponding service of hearing notice served on the taxpayer. He then took us para-4 page-3 in CIT(A)'s order to buttress foregoing plea of violation of principle of natural justice. There is no rebuttal to this clinching fact coming from the Revenue side. We observe in this factual backdrop that the assessee's non appearance before the CIT(A) during the course of lower appellate proceedings was neither intentional nor deliberate but on account of lack of service only. We therefore deem it appropriate in these facts and circumstances that larger interest of justice would be met in case the CIT(A) once again re-adjudicates the entire issue afresh as per law within three effective opportunities of hearing. The assessee itself is directed to appear before the CIT(A) on or before **15.12.2020** for further consequential proceedings.

3. This assessee's appeal is allowed for statistical purposes in above terms..

Order pronounced in open court on 23/09/2020

Sd/-
(लेखा सदस्य)
(J.Sudhakar Reddy)
Accountant Member

Sd/-
(न्यायिक सदस्य)
(S.S.Godara)
Judicial Member

*Dkp-Sr.PS

दिनांक:- 23/09/2020 कोलकाता / Kolkata

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-M/s Utsav Fashion Pvt. Ltd., DN-51, Merlin Infinite, Room No.1211-1213 12th Floor, Sector-V, Salt Lake-700091
2. प्रत्यर्थी/Respondent-ITO Ward-59(4),(TDS), 10B, Middleton Row, Kolkata-71
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता/DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।