

आयकर अपीलिय अधीकरण, न्यायपीठ –“B” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
[Before Hon’ble Shri J.Sudhakar Reddy, AM and Hon’ble Shri A. T. Varkey, JM

ITA No. 2438/Kol/2019
Assessment Year: 2010-11

M/s. Hindusthan Engineering & Ind. Ltd. PAN. AAACH 8505Q	Vs	D.C.I.T, Cir-5, Kolkata
Appellant		Respondent

Date of Hearing (Virtual)	16.09.2020
Date of Pronouncement	24 .09.2020
For the Appellant	Shri Sujoy Sen, Advocate, Ld. AR
For the Respondent	Smt. Ranu Biswas, Addl. CIT/Ld.DR

ORDER

Shri A. T. Varkey, JM

This is an appeal preferred by the assessee against the order of Ld. CIT(A), 17, Kolkata dated 17-01-2019 for the assessment year 2010-11.

2. At the outset, Shri Sujoy Sen, Advocate, Learned Authorised Representative (in short, the Ld. AR) of the assessee contended before us that the Ld. CIT(A) has erred in dismissing the said appeal by an ex parte order. According to him, the assessee had filed written submission before the Ld. CIT(A)-VI, Kolkata on 28-01-2013, which is found placed at pages-1 to 56 of the assessee’s paper book and thereafter, the assessee filed the copy of supplementary submission before the Ld. CIT(A)-VI, Kolkata on 24.12.2013, which is found placed at pages 57-62 of the paper book and thereafter the assessee again filed the copy of supplementary submission before the Ld. CIT(A)-VI, Kolkata on 31.12.2013, which is found placed at pages 63-64 of the paper book. The Ld. AR of the assessee drew our attention to the copy of remand report received from the AO [DCIT, Cir-5, Kolkata dt. 17.1.2014], which is found placed at page-65-70 of the paper book and the copy of second Rejoinder to remand report dt. 6.1.2014 filed by the assessee before the Ld. CIT(A), VI, Kolkata, which is found placed at pages 71-72 of the paper book and

the copy of first Rejoinder to remand report dt. 13.2.2014 before the Ld. CIT(A)-VI, Kolkata, which is found placed at pages 73-74 of the paper book. According to the Ld. AR of the assessee despite filing of the aforesaid documents and despite the Ld. CIT(A) calling for the remand report from the AO, which is evident from page 65-70, the Ld. CIT(A) has erroneously concluded that even though he fixed the case on five (5) different occasions, none appeared on behalf of the assessee and since no response was made pursuant to the notices issued by his office, he had no option but to dismiss the appeal of assessee ex parte qua the assessee without going into the merits of the case/grounds raised by the assessee. We note that the impugned order of the Ld. CIT(A) is an ex parte order. We note from the aforesaid facts discussed supra, the assessee, had, in fact, filed supporting documents, which is running upto 1-74 pages along with written submissions and the Ld. CIT(A) called for remand report from the AO despite that the Ld. CIT(A) has without application of mind, has termed that assessee did not participate despite notices were issued by his office.

3. In the light of the aforesaid discussion, we are of the opinion, the Ld. CIT(A) has passed the impugned order without application of mind, which is erroneous and need to be set aside. Therefore, we set aside the same and remand the matter back to him and direct to take into account the aforesaid documents along with remand report of AO and decide the appeal ground-wise on merits and to pass a speaking order, after giving the assessee reasonable opportunity of hearing in accordance to law.

4. In the result, the appeal of assessee is allowed for statistical purpose.

Order is pronounced in the open court on 24 September 2020

Sd/-
(J. Sudhakar Reddy)
Accountant Member

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

Dated : 24 September 2020

**PP(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant –M/s. Hindusthan Engineering & Ind. Ltd C/o M/s. Salarpuria Jajodia & Co. 3rd Fl., 7 Chittaranjan Avenue, Kolkata-72.
2. Respondent – The DCIT, Cir-5, Bamboo Villa 169, AJC Bose Road, Kolkata-14.
3. CIT(A)-, Kolkata (sent through e-mail)
4. CIT- , Kolkata.
5. DR, ITAT, Kolkata. (sent through e-mail)

By order,

/True Copy,

Assistant Registrar