

आयकर अपीलिय अधीकरण, न्यायपीठ – “B” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
 (समक्ष) Before श्री जे. सुधाकर रेड्डी, लेखा सदस्य एवं/and श्री ऐ. टी. वर्की, न्यायीक सदस्य)
 [Before Shri J. Sudhakar Reddy, AM & Shri A. T. Varkey, JM]

I.T.A. No. 2098/Kol/2019
Assessment Year: 2012-13

Premium Towers Pvt. Ltd. (PAN: AAACP7635F)	Vs.	Income-tax Officer, Wd-3(3), Kolkata
Appellant		Respondent

Date of Hearing (Virtual)	17.09.2020
Date of Pronouncement	24.09.2020
For the Appellant	N o n e
For the Respondent	Smt. Ranu Biswas, Addl. CIT

ORDER

Per Shri A.T.Varkey, JM

This is an appeal filed by the assessee against the order of Ld. CIT(A)-17, Kolkata dated 23.07.2019 for A Y 2012-13.

2. None appeared for the assessee. However, we note that the ld. CIT(A) has passed an *ex parte* order and has not decided the grounds of appeal raised by the assessee and as required by sub-section (6) of section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”). The ld. CIT(A) notes that notices were issued fixing the dates of hearing on 13.03.2019, 24.05.2019 & 18.07.2019 and since there was non-compliance on behalf of assessee, he was of the opinion that the assessee has nothing further to submit in this case and accordingly the appeal was disposed off based on submissions and facts on record. The Ld. CIT(A) dismissed the appeal without spelling out the points for determination and the reason for the decision as required by sub-section (6) of section 250 of the Act. We note that assessee preferred nine (9) grounds of appeal, however, the Ld. CIT(A) has decided the appeal not ground-wise. The Ld. CIT(A) has simply relied on the case laws without discussing the facts of the assessee’s case as noted by the AO and has not discussed the grievances of the assessee raised in the grounds of appeal and has not

discussed the material or evidence adduced by the assessee during the assessment proceedings or filed before him. However, the Ld. CIT(A) has reproduced two case laws and simply remarked that the appeal of the assessee is covered by these case laws without stating how this case is covered by those case laws. So, we cannot countenance the action of Ld. CIT(A).

3. It should be kept in mind that if an assessee is aggrieved by the order of the AO, then it (assessee) has the statutory right to file an appeal before the Id. CIT(A). This valuable/statutory right of the assessee cannot be lightly brushed aside. Having said so, we expect the assessee to be diligent while pursuing the appeal and the assessee has to file written submission, documents/materials in support of the claim. In the light of above discussion, the impugned order of the Ld. CIT(A) is set aside and the appeal is restored back to him with direction to pass a speaking order by going through the statements of facts as well as oral/written submissions/documents, if any, filed by the assessee and in accordance to law. The assessee is directed to be diligent and either appear or/and file necessary papers before him, if advised to do so and the Ld. CIT(A) to decide the appeal 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 24th September, 2020.

Sd/-

(J. Sudhakar Reddy)
Accountant Member

Sd/-

(A. T. Varkey)
Judicial Member

Dated: 24th September, 2020

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Premium Towers Pvt. Ltd., 104/1, Foreshore Road, Ground floor, Ramkrishnapur, Howrah-711102
2. Respondent – ITO, Ward-3(3), Kolkata
3. The CIT(A) –17, Kolkata (sent through e-mail)
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)
/True Copy,

By order,

Assistant Registrar