

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

**(Before Sri J. Sudhakar Reddy, Hon'ble Accountant Member & Sri S.S. Godara, Hon'ble Judicial Member)
[VIRTUAL COURT HEARING]**

**ITA No. 1059/Kol/2019
Assessment Year: 2016-17**

**Income Tax Officer, Ward-47(1), Kolkata..... Appellant
Vs.**

**Gloster Jute Mills Ltd. Employees Provident Fund.....Respondent
Bauria**

**Fort Gloster Bauria
Howrah - 711 310
[PAN : AAATG 4908 R]**

Appearances by:

Shri Dhrubajyoti Ray, JCIT, D/R, appearing on behalf of the Revenue.

Shri Amit Gupta & Shri Bharat Jain, appeared on behalf of the assessee.

Date of concluding the hearing : September 10th, 2020

Date of pronouncing the order : September 23rd, 2020

ORDER

Per J. Sudhakar Reddy, AM :-

This appeal filed by the revenue is directed against the order of the Learned Commissioner of Income Tax (Appeals)- 14, Kolkata, (hereinafter the 'ld. CIT (A)'), dt. 26/02/2019, passed u/s 250 of the Income Tax Act, 1961 (the 'Act'), relating to the Assessment Year 2016-17.

2. The ld. D/R submitted that the ld. CIT(A) has set aside the issue to the file of the Assessing Officer though the ld. CIT(A) has no such power under the Act after amendment to the Section 251 of the Act *w.e.f.* 01/06/2001 by the Finance Act, 2001 . On a suggestion from the Bench, the ld. D/R agreed that the Bench may set aside the issue to the file of the Assessing Officer, for fresh adjudication in accordance with law. The ld. Counsel for the assessee, though no leaving his grounds, agreed to the contentions of the ld. D/R.

3. In view of the above discussion, we set aside the entire issue to the file of the Assessing Officer with a direction that adequate opportunity be given to the assessee and a fresh order has to be passed in accordance with law after verification. The law as explained by the ld. CIT(A) has to be followed by the Assessing Officer.

4. In the result, appeal of the revenue is allowed for statistical purposes.

Kolkata, the 23rd day of September, 2020.

**Sd/-
[S.S. Godara]
Judicial Member
Dated : 23.09.2020
{SC SPS}**

**Sd/-
[J. Sudhakar Reddy]
Accountant Member**

Copy of the order forwarded to:

**1. Gloster Jute Mills Ltd. Employees Provident Fund
Bauria
Fort Gloster Bauria
Howrah - 711 310**

2. Income Tax Officer, Ward-47(1), Kolkata

3. CIT(A)-

4. CIT- ,

5. CIT(DR), Kolkata Benches, Kolkata.

True copy
By order

Assistant Registrar
ITAT, Kolkata Benches