

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

(Before Sri J. Sudhakar Reddy, Hon'ble Accountant Member & Sri S.S. Godara, Hon'ble Judicial Member)

**ITA No. 2351, 2352, 2353 & 2354/Kol/2019
Assessment Year: 2013-14**

Thai Airways International Public Company Limited.....Appellant
Apeejay House
6th Floor
Block-A
Park Street
Kolkata - 700 016
[PAN : AAAJT 0025 A]

Vs.

Deputy Commissioner of Income-Tax, CPC-TDS, Ghaziabad.....Respondent

Appearances by:

None, appeared on behalf of the assessee.

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

Date of concluding the hearing : September 28th, 2020

Date of pronouncing the order : October 22nd, 2020

ORDER

Per J. Sudhakar Reddy, AM :-

These appeals filed by the assessee are directed against the separate identical orders of the Learned Commissioner of Income Tax (Appeals) – 24, Kolkata, (hereinafter the “ld.CIT(A)”), passed u/s. 250 of the Income Tax Act, 1961 (the ‘Act’), dt. 07/05/2019, for the Assessment Year 2012-13.

2. As the issue arising in all these appeals are common, they are heard together and disposed off by way of this common order. None appeared on behalf of the assessee. There is no petition for adjournment either. Under these circumstances, we dispose off the case *ex-parte* , on merits, *qua* the assessee after hearing the ld. Departmental Representative.

3. Heard the ld. D/R. After perusing the order passed by the ld. CIT(A), we find that the assessee has not appeared before the ld. CIT(A) and hence *ex-parte* orders were passed. The ld. CIT(A) has not disposed off the cases on merits. This is not permissible under law. Hence we deem it fit to restore the issue to the file of the ld. CIT(A), for fresh adjudication, in accordance with law, after giving the assessee adequate opportunity of being heard, on the grounds of violation of principles of natural justice, subject to the payment of cost of Rs.10,000/- (Rs. Ten Thousand Only), in respect of each appeal, by the assessee in favour of Prime Minister Relief Fund, for having not appeared before the

ld. CIT(A) as well as before us in this proceeding. The CIT(A) shall verify the said payment by the assessee and thereafter proceed to dispose off the case afresh, in accordance with law.

4. For this proposition to levy costs, while condoning the actions of the assessee as reasonable, we rely on the decision of the Hon'ble Bombay High Court in the case of *Vijay Vishin Meghani vs. The Deputy Commissioner of Income Tax Circle in ITA No. 493 of 2015 & 508 of 2015, dt. September 19, 2017*, wherein at para 11, it has been held as follows:-

"11. We do not find that any of these decided cases have any application to the facts before us. We have imposed the costs not because the appellant was not acting bona fide but finding that even after the legal advice was obtained, the matter was decided in favour of the assessee, there was time which was consumed and in all this delay of 2984 days occurred. While condoning such delay, it is permissible for court, in its discretion, to impose costs. Eventually, the rights and equities have to be balanced. To render substantial justice and not to enrich the Revenue that the costs have been imposed. It is not, therefore, a case where the State has been allowed to retain any benefit or has been benefited by any directions. It is the Court which in its discretion has imposed this condition. We do not find any basis to alter it. The request in that behalf is refused."

5. In the result, appeal of the assessee is allowed for statistical purposes as directed above.

Kolkata, the 22nd day of October, 2020.

Sd/-
[S. S. Godara]
Judicial Member

Dated : 22.10.2020
{SC SPS}

Sd/-
[J. Sudhakar Reddy]
Accountant Member



Copy of the order forwarded to:

1. Thai Airways International Public Company Limited

Apeejay House

6th Floor

Block-A

Park Street

Kolkata - 700 016

2. Deputy Commissioner of Income-Tax, CPC-TDS, Ghaziabad

3. CIT(A)-

4. CIT- ,

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

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches