

*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH "C-SMC" KOLKATA*

**Before Shri Sanjay Garg, Judicial Member**

आयकर अपील सं.य/ <b>ITA No. 1199/Kol/2019</b> Assessment Year:2011-12
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M/s. Ved Prakash Tiwari 2 <sup>nd</sup> Fl., Salkia School Road, Howrah-711101 <b>[PAN No. ABUPT3449H</b>	<u>बनाम /</u> <b>V/s.</b>	I.T.O, Ward 48(4), 3 Government Place, Kolkata-700 001.
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

**Hearing through video Conferencing**

अपीलार्थी की ओर से/By Appellant	None appeared
प्रत्यर्थी की ओर से/By Respondent	Mr. Jayanta Khanra, JCIT, Sr.DR
सुनवाई की तारीख/Date of Hearing	09-02-2021
घोषणा की तारीख/Date of Pronouncement	09-02-2021

**आदेश /O R D E R**

The present appeal has been preferred by the assessee against the order dated 23-04-2019 of the Commissioner of Income-tax (Appeals), Kolkata [hereinafter referred to as 'CIT(A)'].

2. No one has put in appearance despite notice. Therefore, the impugned appeal is decided after going through the records and after hearing the Ld.DR

3. At the outset, the Ld. DR has invited my attention to the impugned order of the Ld. CIT(A). I find that the Ld. CIT(A) has dismissed the appeal of the assessee on technical ground due to clerical mistake apparent in appeal Form No. 35, wherein the assessee wrongly wrote/mentioned the assessment year 2010-11 instead of assessment year 2011-12. It was pleaded before the Ld. CIT(A) by the assessee that the above mistake was a clerical error and that the assessee/appellant may be allowed

to rectify the same as A.Y 2011-12. However, the Ld. CIT(A) dismissed the appeal of the assessee only on this technical ground. I find that the principle of natural justice has been violated by the Ld. CIT(A). The said clerical error as noted above, could have been allowed to be rectified by the Ld. CIT(A). In view of above and for the sake of principle of natural justice, the assessee is required to be given adequate opportunity to rectify the said clerical mistake before the Ld. CIT(A). In view of the above, the impugned order of the Ld. CIT(A) is set aside and the matter is restored to the file of the Ld. CIT(A) for fresh adjudication. Needless to say that Ld. CIT(A) will allow the assessee to rectify the said mistake occurred in Form No.35 and thereafter, will decide the issue(s) afresh by way of passing a speaking order in accordance with law.

The appeal of the assessee is treated as allowed for statistical purpose.

Order pronounced in open court at the close of the hearing on  
Tuesday, 9<sup>th</sup> February, 2021.

Sd/-  
(Sanjay Garg)  
Judicial Member

Kolkata,  
\*\*PP/Sr.PS

दिनांक:- 09/02/2021 कोलकाता

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

1. अपीलार्थी/Appellant-M/s.Ved Prakash Tiwari, 2<sup>nd</sup> Fl., 148 Salkia School Road, Howrah-711 101.
2. प्रत्यर्थी/Respondent-I.T.O., 48(4), 3 Govt Pl., Kolkata-700 001.
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,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,कोलकाता ।