

IN THE INCOME TAX APPELLATE TRIBUNAL GAUHATI BENCH, “VIRTUAL HEARING” AT KOLKATA

(समक्ष) श्री ऐ. टी. वर्की, न्यायीक सदस्य)

[Before Shri A. T. Varkey, JM]

I.T.A. No. 03/GAU/2020

Assessment Yeas: 2013-14

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| Chhaganmal Sarawgi & Sons (PAN: AABFC1873E) | Vs. | Assistant Commissioner of Income-tax, Circle-4, Guwahati |
| Appellant | | Respondent |

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| Date of Hearing | 22.02.2021 |
| Date of Pronouncement | 25.02.2021 |
| For the Appellant | Shri J. C. Kankaria, AR |
| For the Respondent | Shri Subhrajyoti Bhattacharya, Addl. CIT |

ORDER

This appeal preferred by the assessee is against the order of Ld. CIT(A), Guwahati-2, Guwahati dated 30-09-2019 for assessment year 2013-14.

2. At the outset, Ld. Counsel for the assessee Shri J. C. Kankaria submitted that the Ld. CIT(A) in respect of this appeal had only issued one notice dated 12.09.2019, fixing the case for hearing on 19.09.2019. According to the Ld. AR, he had appeared and sought adjournment since he was prepared only for some penalty appeals. However, the Ld. CIT(A) insisted that the Ld. AR should submit his arguments regarding this appeal also, even though he pressed for adjournment, which was not granted; and based on the oral submissions, which was not properly prepared, the Ld. CIT(A) has passed the order on 30.09.2019. According to the Ld. AR, the action of the Ld. CIT(A) is bad for not granting proper opportunity of hearing to the Ld. AR and prayed that the matter may be restored back to the file of the Ld. CIT(A) for fresh adjudication. Per contra, the Ld. DR though opposed the submission of the Ld. AR of the assessee, however, did not oppose the prayer that the appeal may be restored back to the Ld. CIT(A) for fresh adjudication.

3. Having heard both the parties it is noted that the main grievance of the assessee is that the Ld. CIT(A) had issued only one notice dated 12.09.2019 fixing the matter on 19.09.2019 wherein the assessee sought adjournment which was not granted and the ld.

CIT(A) based on the oral arguments have decided the appeal by dismissing the same. According to the Ld. AR, he was not prepared in respect of this case and has not come with the documents/case files to substantiate his submissions, therefore, he sought adjournment. Taking into consideration the aforesaid facts, I set aside the impugned order of the Ld. CIT(A) and restore the appeal back to the file of the Ld. CIT(A) and direct the Ld. CIT(A) to decide the appeal on merits as contemplated u/s. 250(6) of the Income-tax Act, 1961 which reads as under:

“Procedure in appeal

250(6) – The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.”

4. The Ld. CIT(A) should dispose of the appeal in writing and shall state the points for determination, and pass a speaking order for the decision; and the assessee is advised to be diligent and to file all documents along with the written submissions at the time when the matter is fixed for hearing. With these observations, the appeal of the assessee is allowed for statistical purposes.
5. In the result, the appeal of assessee is allowed for statistical purposes.

Order is pronounced in the open court on 25th February, 2021.

Sd/-

(Aby. T. Varkey)
Judicial Member

Dated: 25.02.2021

JD(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – M/s. Chhaganmal Sarawgi & Sons, House No. 68, SRCB Road, Fancy Bazar, Guwahati-781001.
2. Respondent – ACIT, Circle-4, Guwahati
3. CIT(A), Guwahati-2, Guwahati.

4. CIT- Guwahati
5. DR, ITAT, Guwahati

/True Copy,

By order,
Senior Pvt. Secy.