

आयकर अपीलीय अधीकरण, न्यायपीठ –“B” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
[Before Hon’ble Shri P. M. Jagtap, Vice President and Hon’ble Shri A. T. Varkey, JM]

I.T.A. No. 1468/Kol/2019
Assessment Year: 2012-13

Ginza Industries Ltd. (PAN: AABCG0675P)	Vs.	Deputy Commissioner of Income-tax Circle-6(1), Kolkata.
Appellant		Respondent

Date of Hearing (Virtual)	13.07.2021
Date of Pronouncement	16.07.2021
For the Appellant	Shri Brijesh Kumar Singh, Advocate
For the Respondent	Smt. Ranu Biswas, Addl. CIT

ORDER

Per Shri A. T. Varkey, JM:

This is an appeal preferred by the assessee against the order of the Ld. CIT(A)-7, Kolkata dated 02.05.2019 for AY 2012-13.

2. At the outset, the Ld. AR Shri Brijesh Kumar Singh, Advocate pointed out that the order of the Ld. CIT(A) is an ex parte order and the assessee has been given only one opportunity fixing the case on 10.04.2019 and thereafter he has passed the order on 02.05.2019. Therefore, he prayed that the assessee since did not get proper opportunity before the Ld. CIT(A), the appeal be restored back to the file of the Ld. CIT(A). Per contra, the Ld. DR does not have any objection if the appeal is restored back to the Ld. CIT(A).

3. We have heard rival submissions and gone through the facts and circumstances of the case. We note that the Ld. CIT(A) has noted in para 3 of the impugned order that the case was fixed on 10.04.2019 and 02.05.2019 since none was present in the appellate proceedings he was pleased to dismiss the appeal of the assessee by passing an order on the same day i.e. on 02.05.2019. It has to be kept in mind the appeal is a statutory right of the assessee. The appellate proceeding would become illusory if the Ld. CIT(A) does not give proper opportunity to the assessee, therefore, in the interest of justice and fairplay, we set

aside the order of the Ld. CIT(A) and restore the appeal back to the file of the Ld. CIT(A) with a direction that decide the appeal after giving proper opportunity of hearing to the assessee. The assessee is also directed to file written submission and documents in support of its claim and in accordance to law so that Ld. CIT(A) can pass an appellate order in accordance to law.

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

Order is pronounced in the open court on 16th July, 2021.

Sd/-

(P. M. Jagtap)
Vice President

Sd/-

(A. T. Varkey)
Judicial Member

Dated: 16th July, 2021

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Ginza Industries Ltd., C/o Pawan Kumar Agarwal, FCA C/o Agarwal Sangeneria & Co. 7, Rabindra Sarani, 5th floor, Room No. 513, Kolkata-700 001.
2. Respondent – DCIT, Circle-6(1), Kolkata.
3. CIT(A)-7, Kolkata. (sent through e-mail)
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

/True Copy,

By order,

Senior Pvt. Secretary/DDO
