

आयकर अपीलिय अधीकरण, न्यायपीठ –“A” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
 [Before Shri A. T. Varkey, Hon’ble Judicial Member and Dr. M. L. Meena, Hon’ble Accountant Member]

I.T.A. No. 726/Kol/2019
Assessment Year: 2010-11

M.G.B. Transport [PAN: AAOFM 1663 P]	Vs.	ITO, Ward – 3(1), Asansol
Appellant		Respondent

Date of Hearing (Virtual)	03.08.2021
Date of Pronouncement	11.08.2021
For the Appellant	None
For the Respondent	Shri Supriyo Pal, Addl. CIT

ORDER

Per A.T. Varkey, JM:

This is an appeal preferred by the assessee against the order of the Ld. CIT(A), Asansol dated 23.09.2014 for AY 2010-11.

2. None appeared for the assessee.

3. However, there is a history behind the appeal, it is noted that the assessee had preferred two appeals against the same impugned order of the Ld. CIT(A) dated 23.09.2014 for AY 2010-11. The other appeal was as ITA No. 751/Kol/2019 which was disposed of first on 30.10.2019 whereby the assessment was restored to the file of AO for de novo consideration.

4. Thereafter appeal of the assessee against the same order of Ld. CIT(A) dated 23.09.2014 which was numbered as ITA No. 726/Kol/2019 (i.e. the present case) was disposed of on 22.01.2020 remitting the matter back to the Ld. CIT(A). However the department thereafter moved a miscellaneous application for clarification/ mistake

apparent on the face of the record since there were two orders against the order of Ld. CIT(A) for AY 2010-11 dated 23.09.2014, one remitting the assessment back to the AO for de-novo assessment in ITA No.751/Kol/2019 and second one restoring the appeal back to the Ld. CIT(A) in ITA No. 726/Kol/2019. In the said miscellaneous application the Tribunal passed an order dated 01.04.2021, wherein it was pleased to hold as under:

“Both these appeals have been filed by the assessee directed against the very same order of the Id. CIT(A) dt. 23/09/2014 in appeal no. 169/CIT(A)/AI/W-3(1)/Asl/13-14.

2. The assessee had filed two separate appeals on the same order of the Id. CIT(A) for the same Assessment Year and these were numbered ITA Nos. 726 /Kol/2019 & 751/Kol/2019. Only one challan fees of Rs. 10,000/- was paid for both these appeals bearing challan no. 02041 dt. 02/04/2019. The registry wrongly gave two numbers and treated them as two separate appeals. ITA No. 751/Kol/2019 was heard on 21/10/2019 and disposed of on 30/10/2019. Thus, this appeal of the assessee against the order of the Id. CIT(A) dt. 23/09/2014, stands disposed off by the Bench. ITA No. 726/Kol/2019, was heard on 16/01/2020 and disposed off on 22/01/2020. As the appeal for the Assessment Year 2010-11 was against the same order of the Id. CIT(A) dt. 23/09/2014, which was already disposed by the Tribunal on 30/10/2019 in ITA No. 751/Kol/2019, it is a mistake on part of the Tribunal to once again pass an order disposing off the appeal in ITA No. 726/Kol/2019, vide order dt. 22/01/2020.

3. Thus, we recall our order in ITA No. 726/Kol/2019 dt. 22/01/2020. This recalled order in ITA No. 726/Kol/2019 is dismissed for the reason that the appeal against the very same order of the Id. CIT(A) in ITA No. 751/Kol/2019 had already been disposed off on 30/10/2019. The order of the ITAT in ITA No. 751/Kol/2019, dt. 30/10/2019 stands.

4. Ordered accordingly.”

5. From the aforesaid action of the Tribunal it is self-explanatory that this appeal i.e. ITA No. 726/Kol/2019 stands dismissed because the appeal No. 751/Kol/2019 filed against the impugned order of the Ld. CIT(A) dated 23.09.2014 was disposed of by this Tribunal on 30.10.2019 and subsequently only the order was passed by the Tribunal in ITA No. 726/Kol/2019 which was passed on 30.10.2019 and therefore this appeal of the assessee become infructuous and it is clarified that the order of this Tribunal in ITA No. 751/Kol/2019 dated 30.10.2019 only survives.

5. In the result, the appeal of the assessee is treated as allowed for statistical purpose as held in ITA No. 751/Kol/2019 dated 30.10.2019.

Order is pronounced in the open court on 11th August, 2021.

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(A.T. Varkey)
Judicial Member

Dated: 11th August, 2021

SB, Sr. P.S

Copy of the order forwarded to:

1. Appellant- M.G.B. Transport, Babu Para, P.O. Searsole Rajbari, Raniganj – 713358.
2. Respondent – ITO, Ward – 3(1), Asansol
3. The CIT(A)- Asansol (sent through e-mail)
4. CIT-
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Senior Private Secretary/DDO
ITAT, Kolkata Benches, Kolkata
