

आयकर अपीलिय अधीकरण, न्यायपीठ –“C” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH: KOLKATA**  
[Before Shri P. M. Jagtap, Vice President (KZ) & Shri A. T. Varkey, Judicial Member]

**I.T.A. No. 2639/Kol/2019**  
**Assessment Year: 2008-09**

M/s Rangsiddh Enterprises Pvt. Ltd. (PAN: AACCA 2560 N)	Vs	Income-tax Officer, Ward-3(2), Kolkata.
Appellant		Respondent

Date of Hearing (Virtual)	01.09.2021
Date of Pronouncement	03.09.2021
For the Appellant	Shri Sushil Pransukha, AR
For the Respondent	Shri Devi Sharan Singh, CIT

### **ORDER**

#### **Per Shri A. T. Varkey, JM:**

This is an appeal preferred by the assessee against the order of the Ld. CIT(A)-17, Kolkata dated 20.08.2019 for AY 2008-09 .

2. At the outset, the Ld. AR of the assessee Shri Sushil Pransukha drew our attention to the fact that the Ld. CIT(A) has passed an ex-parte order. According to Ld. A.R. even though the Ld. CIT(A) has stated to have fixed the case on five (5) separate dates, was brought to our notice that the assessee had filed written submission before the Ld. CIT(A) dated 09.03.2019 which fact is evident from a stamp of receiving it in the office of the Ld. CIT(A)-17 dated 14.03.2019. We note that the written submission dated 09.03.2019 along with document running to more than 157 pages have been filed before the Ld. CIT(A). However the Ld. CIT(A) has adjourned the hearing on that date i.e. 14.03.2019 and thereafter fixed the appeal on 13.08.2019 (after five (5) months). However according to Ld. A.R., the assessee/ A.R was not aware of the date of hearing fixed on 13.08.2019, so could not participate before the Ld. CIT(A). However the main grievance of the assessee is that the Ld. CIT(A) has passed the impugned ex-parte order without even discussing any contention raised by the assessee/documents/case laws relied upon by the assessee. We find the grievance of the assessee is correct. As per the

scheme of the Income Tax Act, 1961 (hereinafter referred to as the Act) if the assessee is aggrieved by the assessment order framed by an AO, then he has the statutory right to prefer an appeal before the Ld. CIT(A). This right would be illusory if the Ld. CIT(A) does not adjudicate the grounds of appeal raised by the assessee on the question of law as well as on merits in accordance to law. In the absence of the Ld. A.R./assessee appearing on the date of hearing, it would have been apposite if the Ld. CIT(A) have considered the written submission along with documents and ought to have adjudicated the appeal on merits as well as on legal grounds raised if any. Since there is a violation of natural justice we are inclined to set aside the order of the Ld. CIT(A) and remand back to the file of the Ld. CIT(A) for adjudication of appeal after going through the written submission and documents filed along with it and if opted to, an opportunity of hearing in accordance to law. Needless to say, that Ld. CIT(A) may call for remand report from AO as per law while adjudicating the appeal.

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

Order is pronounced in the open court on 3<sup>rd</sup> September, 2021.

Sd/-

(P. M. Jagtap)  
Vice President

Sd/-

(A. T. Varkey)  
Judicial Member

Dated: 3rd September, 2021

*SB, Sr. PS*

Copy of the order forwarded to:

1. Appellant- M/s Rangsidh Enterprises Pvt. Ltd. , 12, Waterloo Street, Kolkata-700069
2. Respondent – ITO, Ward-3(2), Kolkata.
3. CIT(A)-17, Kolkata (sent through e-mail)
4. CIT, Kolkata.
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Senior Private Secretary/DDO  
ITAT, Kolkata Benches, Kolkata