

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BENCH "B" KOLKATA**

**Before: Shri Manish Borad, Accountant Member, and  
Shri Sonjoy Sarma, Judicial Member**

आयकर अपील सं.य/ ITA No. 721/Kol/2018 Assessment Year:2012-13		
DCIT, Cir-3(1), Kolkata P-7 Chowringhee Square, Aaykar Bhawan, 4 <sup>th</sup> Fl., Room No. 19, Kolkata- 69.	<u>बनाम</u> V/s.	M/s. R. Piyarelall Import & Export Limited.Regent House, 12 Government Place (East), Kolkata-700 069.
PAN: AABCR2695G		
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent
अपीलार्थी की ओर से/By Appellant		None
प्रत्यर्थी की ओर से/By Respondent		Shri Sudipta Guha,Ld.CIT/DR
सुनवाई की तारीख/Date of Hearing		14-06-2022
घोषणा की तारीख/ Date of Pronouncement		22-06 -2022

**आदेश /O R D E R**

**Per Sonjoy Sarma, JM :**

The present appeal has been preferred by the department against the order dated 28-12-2017 passed by the of Id. Commissioner of Income-tax (Appeals), [in short, the Id. CIT(A)]-1, Kolkata, which in turn arises out of assessment order passed u/s. 144 of the Income-tax Act, 1961 ( in short, the 'Act') by JCIT, Range-3, Kolkata on 30-03-2015 for the A.Y under consideration.

2. Since this appeal has been filed by the department and time to time the registry issued notices to the assessee respondent. However, none

appeared on behalf of the assessee. As such we have no other option but to decide the appeal *ex parte* the assessee.

3. At the time of hearing the registry has informed that the present appeal is time barred by 35 days. The Ld. DR prayed for condonation of the delay by submitting the affidavit which is placed on record. We after perusing the affidavit as well as material available on record we find that merit in the contention of the affidavit given by the Ld. DR and keeping the larger interest of justice, we condone the delay and admit the appeal for adjudication.

4. The department has raised the following grounds of appeal:-

01. Whether on the facts and in the circumstances of the cases and in law, the Ld. CIT(A) was justified in deleting the addition of Rs. 161,80,07,934/- and directing the AO to adopt the estimated gross profit rate @ 5.89%.

02. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting disallowances of Rs. 437693/- u/s 14A of the Act ?

03. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting addition of Rs. 50,00,000/- on account of bogus unsecured loans?

04. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting disallowance of bogus purchase of Rs.64874000/-?

05. That it is prayed to set aside the order passed by the Ld. CIT(A)-I and restore the assessment order passed by the Assessing Officer in this case.

06. Department craves leave to add, alter, or modify any ground of appeal during the course of hearing.

5. At the outset, Shri Sudipta Guha, Ld. CIT/DR submitted before us that certain issues, which were decided by the Ld. CIT(A) without calling the remand report from the Ld. AO and the Ld. CIT(A) decided the appeal of assessee without considering the same. Therefore, to arrive at a right conclusion, the Bench called for remand report from the department. In response to which, a copy of letter no. DCIT, Cir-(1)/Kol/Misc./2022-23/75 dt.

12-05-2022 issued by the Department duly signed by DCIT,Cir-1(1), Kolkata submitted a letter. Relevant portion of the said letter reads as under:-

*“However, the undersigned have deputed departmental Inspector (ITI) to enquire about the concerned remand report as asked for from the office of the Ld. CIT(A), Unit-1, Kolkata as well as to obtain all the necessary copies of documents for reconstruction of record. The Inspector's report (copy enclosed) has been perused and kept on record. The relevant copy of order/ note sheet of the concerned file maintained at the office of the Ld. CIT(A), Unit-1, Kolkata as obtained by the ITI is also enclosed for your kind perusal. It has been reported that there is no letter issued asking remand report from the office of the then Ld. CIT(A)-1, Kolkata neither they have received any remand report w.r.t. order passed u/s.144 r.w.s. 143(3) of the LT. Act,1961 dated 30.03.2015 by the JCIT, Range-3, Kolkata.”*

6. We, after hearing the Ld. DR and going through the above material, are satisfied that there is no letter issued asking remand report from the Office of the then Ld. CIT(A)-1, Kolkata, neither they have received any remand report w.r.t order passed u/s. 144 r.w.s 143(3) of the I.T Act, 1961 dated 30.03.2015 by the Ld. JCIT, Range-3, Kolkata. Therefore, it is necessary to examine the issues raised by the department in the instant appeal by the Ld. CIT(A) in a detail manner. After calling for remand report from the Id. AO the Ld. CIT(A) will decide the issue(s) afresh raised in the instant appeal. He shall pass a reasoned order after issuing notices to both the parties as per law giving reasonable opportunity of being heard. Grounds raised by the department are allowed for statistical purpose.

7. In the result, the appeal of the department is allowed for statistical purpose.

The order pronounced in the open Court on 22 -06-2022

Sd/-

Sd/-

**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

**(SANJOY SARMA)**  
**JUDICIAL MEMBER**

दनांक /Dated :22-06-2022

\*\*PP/SPS

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

- 1.अपीलार्थी/Appellant/Department: DCIT, Cir-3(1), Kolkata  
P-7 Chowringhee Square, Aaykar Bhawan, 4<sup>th</sup> Fl., Room No. 19,  
Kolkata-69.
2. प्रत्यर्थी/Respondent/Revenue: M/s. R. Piyarelall Import & Export  
Limited.Regent House, 12 Government Place (East), Kolkata-  
700 069.
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,

Assistant Registrar /  
Senior Private Secretary  
ITAT, Kolkata