

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'B' BENCH, KOLKATA**

**Before Shri Manish Borad, Accountant Member
&
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 2083/KOL/2018
Assessment Year: 2011-2012**

Flux Overseas Pvt. Limited,.....Appellant
C/o. N.S.A. & Co.,
P-17, New CIT Road, 1st Floor,
Room No. 7, Near Central Metro,
Kolkata-700073
[PAN: AAACF7600C]

-Vs.-

Income Tax Officer,.....Respondent
Ward-12(1), Kolkata,
Aayakar Bhawan ,
P-7, Chowringhee Square,
Kolkata-700069

Appearances by:

Shrib Amit Agarwal, Advocate, for the Appellant
Shri Sudipta Guha, CIT, D.R., for the Respondent

Date of concluding the hearing : August 11, 2022
Date of pronouncing the order : August 11, 2022

O R D E R

Per Manish Borad, Accountant Member:-

This appeal at the instance of assessee for assessment year 2011-12 is directed against the order of ld. Commissioner of Income Tax (Appeals)-16, Kolkata dated 29.08.2017, which is arising out of the order under section 144 of the Act on 25.03.2014 framed by Income Tax Officer, Ward-12(1), Kolkata.

2. At the outset, ld. counsel for the assessee submitted that the impugned order is ex-parte and the assessee could not get reasonable opportunity to plead before the ld. 1st Appellate Authority and, therefore,

requested for restoring the issue raised in the instant appeal to the ld. CIT(Appeals) for fresh adjudication.

3. Ld. D.R. has raised no objection if the issues raised in the instant appeal are restored to the ld. CIT(Appeals).

4. We have heard the rival submissions and perused the relevant material placed before us. The assessee has raised four grounds of appeal of which Ground No. 1 states that the ld. CIT(Appeals) erred in dismissing the appeal of the assessee without allowing reasonable opportunity of hearing. Grounds No. 2 & 3 are challenging the addition made by the ld. Assessing Officer under section 68 of the Act at Rs.4,03,65,000/-.

5. On perusal of the impugned order, we find that the impugned order is ex-parte. The ld. CIT(Appeals) has not discussed anything on merits of the case except giving general remark. Prima facie, it seems that the assessee did not get reasonable opportunity of being heard. We, therefore, in the interest of justice and being fair to both the parties restore the issues raised on merit to the ld. CIT(Appeals) for fresh adjudication after considering the submissions of the assessee and pass a speaking order. The assessee is also directed not to take any adjournment unless otherwise required for reasonable cause.

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

Order pronounced in the open Court on August 11, 2022.

**Sd/-
(Sonjoy Sarma)
Judicial Member**

**Sd/-
(Manish Borad)
Accountant Member**

Kolkata, the 11th day of August, 2022

- Copies to :
- (1) **Flux Overseas Pvt. Limited,**
C/o. N.S.A. & Co.,
P-17, New CIT Road, 1st Floor,
Room No. 7, Near Central Metro, Kolkata-700073
 - (2) **Income Tax Officer,**
Ward-12(1), Kolkata,
Aayakar Bhawan ,
P-7, Chowringhee Square, Kolkata-700069
 - (3) *Commissioner of Income Tax (Appeals)-16, Kolkata,*
 - (4) *Commissioner of Income Tax- ,*
 - (5) *The Departmental Representative*
 - (6) *Guard File*

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.