

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्यके समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 56/Kol/2021
आयकर अपील संख्या-56/कोल/2021
Assessment Year : 2011-12
निर्धारण वर्ष: 2011-12

Manidhwaj Polymers Pvt. Ltd. (PAN: AADCM 1409 P)	Vs.	ITO, Ward-9(1), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	31.08.2022
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	06.09.2022
For the Appellant/ निर्धारिती की ओर से	Shri Akkal Dudhwewala, FCA
For the Respondent/ राजस्व की ओर से	Smt. Ranu Biswas, Addl. CITDR

ORDER / आदेश

Per Shri Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax(Appeals)-5, Kolkata (hereinafter referred to as the Ld. CIT(A)"] dated 16.12.2019 for the AY 2013-14.

2. At the outset, the Ld. Counsel for the assessee submitted that the Ld. CIT(A) has decided the appeal ex-parte as the assessee could not appear on various dates when the Ld. CIT(A) fixed this appeal for hearing. The Ld. Counsel submitted that the notices sent by the Ld. CIT(A) were not received by the assessee and therefore the these appeal of the assessee remained unattended before the Ld. CIT(A). The Id

Counsel for the assessee also submitted that the additions were made by the AO in the assessment order without issuing any show cause notice to the assessee. Finally the Id. Counsel of the assessee prayed before the Bench that the assessee may kindly be given one more opportunity to defend its case on merit by restoring this appeal to the file of the Ld. AO.

3. The Ld. D.R on the other hand strongly objected the prayers of the Ld. A.R by submitting that despite several opportunities granted, the assessee did not appear and therefore the said request of the counsel of the assessee may kindly be dismissed. On the issue of non issuing of any show cause notice, the Id DR argued that the assessee has appeared before the AO and was confronted with all the issues.

4. After hearing the rival parties and perusing the material on record, we observe that the assessee's appeal was decided ex-parte by the Id CIT(A) when the assessee failed to turn up on the dates fixed for hearings. We also note that no show cause was issued by the AO before making additions which is also contrary to the established principles of natural justice. Therefore we are of the considered view that the assessee deserves to be given one more opportunity before the AO so that the justice could be done to the assessee and issues could be decided after complying with the said principles. Accordingly we restore the appeal to the file of the Ld. AO with the directions to decide the same on merits by affording the assessee a reasonable opportunity of hearing. We also direct the assessee to cooperate in the disposal of this appeal.

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

Order is pronounced in the open court on 6th September, 2022

Sd/-

(Sonjoy Sarma /संजय शर्मा)

Judicial Member/न्यायिक सदस्य

Sd/-

(Rajesh Kumar/राजेश कुमार)

Accountant Member/लेखा सदस्य

Dated: 6th September, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Manidhwaj Polymers Pvt. Ltd., C/o, Nitesh Kumar Agarwal,
1st Floor, 115, Cotton Street, Burra Bazar, Kolkata-700007.
2. Respondent – ITO, Ward- 9(1), Kolkata
3. Ld. CIT(A)- 5, Kolkata (Sent through e-mail)
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata