

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

**BEFORE SHRI MANISH BORAD, HON'BLE ACCOUNTANT MEMBER
AND SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER**

**ITA No.1095/Kol/2018
Assessment Year: 2012-13**

M/s. Carder Trading Pvt. Ltd. 12A, N.S. Road, 5 th Floor, Room No. 7, Kolkata - 700 001. PAN: AA ECC 7782 Q	Vs.	Tax Recovery Officer-2, Kolkata
(Appellant)		(Respondent)

Present for:

Appellant by : None

Respondent by : Shri Amal Kamat, CIT & Smt. Ranu Biswas, ACIT,

Date of Hearing : 04.08.2022

Date of Pronouncement : 06.09.2022

ORDER

PER SONJOY SARMA, JM:

The instant appeal filed by the assessee pertaining to the A.Y. 2012-13 is directed against the order passed u/s 250 of the I.T. Act, 1961 by the Ld. CIT(A) dated 28.03.2018. The assessee is in appeal before the Tribunal raising the following grounds:

"i. That on the facts and in the circumstances of the case, the ld. CIT(A) erred in ignoring the written submission filed before him and also not deliberating the same in the order.

ii. That on the facts and in the circumstances of the case, the ld. AO erred in making additions of Rs. 100 lakhs by treating the share capital as income of the assessee and the ld. CIT(A) erred in confirming the addition.

iii. That the appellant craves leave to amend, alter, substitute, modify, abridge, add to and/or rescind any or all of the above grounds."

2. When the matter was called for none appeared on behalf of the assessee. On perusal of record, it shows that sufficient opportunities have been given to the assessee

but there is non-compliance on the part of the assessee. It seems that the assessee is not interested to pursue in the appeal and, therefore, we have no other option but to adjudicate the appeal with the assistance of ld. DR and material available on record.

3. Dissatisfied with the above order passed by the Assessing Officer, the assessee preferred an appeal before the ld. CIT(A) where the appeal of the assessee was dismissed and it was decided against the assessee by the ld. CIT(A) without going into the merits of the case. However, while perusing of the impugned order passed by the ld. CIT(A) and main grievance of the assessee is that ld. CIT(A) passed the impugned order without considering the written submission filed before him and passed the impugned order. We find that the order passed by ld. CIT(A) was ex-parte and the assessee's submission in support of its grounds of appeal raised before the ld. CIT(A) was not considered by the ld. CIT(A) and decided the appeal against the assessee. We, therefore, look into the impugned order and also examining the material available on record find that the order passed by ld. CIT(A) was an ex-parte order and in the interest of justice and being fair enough to both the parties and in order to facilitate the assessee so as to correct income of the assessee can be determined. Accordingly, we restore all the issues raised in the instant appeal to the file of ld. CIT(A) for fresh adjudication with the direction to the assessee to furnish necessary details if any as and when called for and the assessee should not take any adjournment unless otherwise required for reasonable cause we further directed the ld. CIT(A) to examine the issues in the light of documents and submission made by the assessee if any provided at the time of hearing, the assessee fails to do so, the reasonable opportunity of being heard should be allowed to the assessee as per law.

4. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 06.09.2022.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Copy to:

1. The Appellant: M/s. Carder Trading Pvt. Ltd.
2. The Respondent: Tax Recovery Officer-2, Kolkata.
3. The CIT, Concerned, Kolkata
4. The CIT (A) Concerned, Kolkata
5. The DR Concerned Bench.

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata