

आयकर अपीलीय अधिकरण, कोलकाता पीठ “ए”, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA

श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष

[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 380/Kol/2022
Assessment Year : 2017-18

Pradip Kumar Sett (PAN: AJXPS 8690 Q)	Vs.	PCIT, Kolkata-9, Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	10.10.2022
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	14.11.2022
For the Appellant/ निर्धारिती की ओर से	Shri Robin Maheshwari, ACA
For the Respondent/ राजस्व की ओर से	Shri Vijay Kumar, Addl. CIT Sr. D.R

ORDER / आदेश

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Ld. Principal Commissioner of Income Tax, Kolkata-9 (hereinafter referred to as the Ld. PCIT) passed u/s 263 of the Income Tax Act, 1961 (hereinafter referred to as the Act) dated 29.03.2022 for the AY 2017-18.

2. At the outset, the Id. Counsel for the assessee submitted before the Bench that the Ld. PCIT has passed an ex-parte order without considering and taking into account

the written submissions filed by the assessee. The Id. Counsel for the assessee drew our attention to the copy of written submissions filed before the Ld. PCIT and submitted that since the order of Ld. PCIT has been passed without considering the merits of the case and therefore in the interest of justice and fair play the same need to be set aside to the file of the Ld. PCIT to pass the order afresh after taking into account the merit of the case.

3. The Ld. D.R on the other hand relied heavily on the order of Ld. PCIT by submitting that despite offering multiple opportunities, the assessee could not present his case on merits before the Id PCIT. Now the assessee has coined and coming up with the theory that he had filed the written submission before the Ld. PCIT.

4. After hearing rival contention and perusing the material on record, we find that the order passed by the Ld. PCIT is an ex-parte order without considering the merit of the case and arguments of the assessee. Under these circumstances we are of the view that the ends of justice could be met if the Ld. PCIT passes fresh order after taking into account the merits of the case and contentions of the assessee. Accordingly, we set aside the issue to the file of Ld. PCIT and direct the Id PCIT to decide the same afresh after taking into account the assessee's written submission and arguments after affording a reasonable opportunity of hearing to the assessee.

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

Order is pronounced in the open court on 14th November, 2022

Sd/-
(Sonjoy Sarma /संजय शर्मा)
Judicial Member/न्यायिक सदस्य

Sd/-
(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 14th November, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Pradip Kumar Sett, 7/1A/1, Dr. U. N. Brahmachari Street, Loudan Street, Kolkata- 700017
2. Respondent – PCIT, Kolkata-9, Kolkata
3. Pr. CIT- , Kolkata
4. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata