

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “ए”, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA**  
**श्री राजपाल यादव, उपाध्यक्ष(कोलकाता क्षेत्र) एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष**  
[Before Shri Rajpal Yadav, Vice-President (KZ) & Dr. Manish Borad, Accountant Member]

**I.T.A. No. 22/Kol/2023**  
**Assessment Years: 2017-18**

Bengal Shelter Housing Development Limited  (PAN: AACCB 2489 R)	Vs.	ITO, Ward-2(2), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	06.03.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	06.03.2023
For the Appellant/ निर्धारिती की ओर से	Shri Sidhharth Agarwal, A.R
For the Respondent/ राजस्व की ओर से	Md. Ghayasuddin, CITDR

**ORDER / आदेश**

**Per Rajpal Yadav, Vice-President:**

The assessee is an appeal before the Tribunal against the order of Ld. CIT(A) dated 20.12.2022 passed for AY 2017-18.

2. The assessee has raised five (5) grounds of appeal. In ground No. 1, it has pleaded that the Ld. CIT(A) has erred in passing ex-parte order against the assessee without providing opportunity of hearing.

3. Brief facts of the case are that the assessee is a joint sector company promoted by West Bengal Housing Board, Govt. of West Bengal and M/s Shelter Project Ltd. Both the entities have contribution of 50% each towards paid up capital of the assessee company. The Ld. Counsel for the assessee submitted that both the impugned orders are ex-parte orders. The assessment order is passed u/s 144 according to best judgment of the Ld. Assessing Officer. He took us through the records and pointed out how the Ld. Assessing Officer has committed an error in passing the best judgment assessment.

4. With the assistance of Ld. Representative, we have gone through the record carefully section 144 of the Income Tax Act, 1961 (hereinafter referred to as the Act) authorizes the Assessing Officer to determine the income of an assessee on the basis of his best of the judgment. It is pertinent to observe that in making a best judgment assessment the Ld. Assessing Officer must not act dishonestly or vindictively. He must make what he honestly believes to be a fair estimate of proper figure of assessment and for this purpose he must be able to take into consideration local knowledge, business of the assessee and his own knowledge of the previous return of income by the assessee. It has been demonstrated before us by the Ld. Counsel for the assessee that the case was transferred to his charge from erstwhile ITO, Ward-9(2), Kolkata and he has not issued fresh notice u/s 143(2) or a proper service upon the assessee. Similarly the Ld. First Appellate Authority also failed to adhere mandate provided under sub-clause (6) to Section 250 it just reproduce the grounds of appeal in paragraph no. 2 page no. 2 to 5 of the impugned order. Thereafter did not record any finding on any of the issue. The whole finding is available in paragraph no. 5 only. Considering all these aspects, we deem it fit to set aside both the impugned orders and restore all these issues to the file of Ld. Assessing Officer for fresh adjudication.

5. It is needless to say that observation made by us will not impair or injecture the case of the Ld. Assessing Officer and will not cause any prejudice to the defense/ explanation of the assessee. The assessee will be at liberty to take all the objections

qua the assessment order admissible in law. With the above observation the appeal of the assessee is allowed for statistical purposes.

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

Order is pronounced in the open court on 6<sup>th</sup> March, 2023

Sd/-  
 (Manish Borad/ मनीष बोर्ड)  
 Accountant Member/लेखा सदस्य

Sd/-  
 (Rajpal Yadav /राजपाल यादव)  
 Vice-President / उपाध्यक्ष

Dated: 6<sup>th</sup> March, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Bengal Shelter Housing Development Ltd., C/o, Subash Agarwal & Associates, Advocates, Siddha Gibson, 1, Gibson Lane, Suite-213, 2<sup>nd</sup> Floor, Kolkata-700069.
2. Respondent – ITO, Ward-2(2), Kolkata
3. Ld. CIT(A)-NFAC-Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
 ITAT, Kolkata Benches, Kolkata