

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'A', KOLKATA

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

I.T.A. No. 178/Kol/2023
Assessment Year : 2012-13

Rajkumar Popatlal Shingvi	Vs	ITO, Ward-25(4)
PAN: ADXPS 4907 Q	.	
Appellant		Respondent

Date of Hearing	18.04.2023
Date of Pronouncement	19.04.2023
For the Assessee	Shri S.K. Gupta, AR
For the Revenue	Smt. Ranu Biswas, Addl. CIT, DR

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2012-13 is directed against the order dated 04.01.2023 passed by the ld. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the ld. CIT(A)'].

2. At the outset, ld. Counsel for the assessee submitted that the order of the ld. CIT(A) is an *ex-parte* order and nothing has been dealt on merits except reiterating assessment order on the disallowances/additions made by the ld. AO. The assessee could not get any opportunity to file its submissions and other relevant details before the authority below. Since none of the notices for hearing of the appeal was received by the assessee. Thus, the assessee referring to grounds of appeal, it has prayed that grounds raised in the instant appeal may be restored to the ld. AO for adjudicating afresh after providing reasonable opportunity of being heard.

3. Per contra, ld. DR was fair enough not to oppose this request of the ld. counsel for the assessee.

4. We have heard the rival contentions and perused the records placed before us. Through grounds, the assessee has stated that ld. CIT(A) failed to appreciate the materials on record and passed the order *ex-parte*. On perusal of the impugned order, we noticed that the instant ground raised by the assessee has merit as in the impugned order, ld. CIT(A) merely reproduced grounds of appeal raised by the assessee and the decision part, finding has been given only reiterating the assessment order passed by the ld. AO, as the assessee in the instant case could not able to file necessary details as well as submissions at the time of hearing before the ld. CIT(A) and before the ld. AO and both the orders are *ex-parte*. Under these given facts and circumstances, we restore the matter in the instant appeal to the file of ld. AO for de novo adjudicating in accordance with law after considering the submission made by the assessee for which reasonable opportunity of being heard should be provided. The assessee also directed to remain vigilant and file necessary documents in support of its grounds of appeal and should not take any further adjournment, unless otherwise required for reasonable cause. In case after providing sufficient opportunity to the assessee, there is no compliance before the ld. AO, then the ld. AO can proceed to pass the order in accordance with law.

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

Order pronounced in the open court on 19.04.2023.

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated:19.04.2023
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Rajkumar Popatlal Shingvi, 602, 6th Floor, Mahaveer Apartment, 2, Ashutosh Mukherjee Road, Bhawanipur, Kolkata-700020.
2. Respondent – ITO, Ward-25(4), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata