

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “बी”, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA**

श्री राजपाल यादव, उपाध्यक्ष(कोलकाता क्षेत्र) एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष  
[Before Shri Rajpal Yadav, Vice-President (KZ) & Shri Rajesh Kumar, Accountant Member]

**I.T.A. No. 196/Kol/2022**  
**Assessment Year: 2013-14**

Exim Overseas (P) Ltd. (PAN: AABCE 4734 D)	Vs.	DCIT, Circle-11(1), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	25.04.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	19.07.2023
For the Appellant/ निर्धारिती की ओर से	Shri Miraj D Shah, A.R
For the Respondent/ राजस्व की ओर से	Shri P. P. Barman, Addl. CIT, Sr.D.R

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax –4, Kolkata (hereinafter referred to as the Ld. CIT(A)”) dated 03.12.2019 for the AY 2013-14.

2. The assessee has challenged the order of Ld. CIT(A) on various legal issues as well as on merit however at the time of hearing the assessee emphasized his arguments only on the passing of ex-parte order by Ld. CIT(A) without considering the merit of the case.

3. The facts in brief are that the assessee filed the return of income on 22.09.2013 declaring total income of Rs.67,22,964/-. The case of the assessee was selected for scrutiny and statutory notices were duly issued and served upon the assessee. The assessee furnished before the AO the details/information as called for and AO after taking into account the submissions of the assessee made additions on three counts namely unexplained cash credits Rs.99,99,425/-, Disallowance u/s 14A of the Act Rs.28,218/- and interest on late payment of tax Rs. 5,446/- in the assessment framed u/s 143(3) of the Act dated 11.03.2016.

4.The ld CIT(A) also passed exparte order when the assessee failed to appear before the appellate authority on four occasions without deciding the issues in merits. The ld CIT(A) gave a very cryptic finding that the assessee has not produced any records to controvert the findings of the AO.

5. The Ld. Counsel for the assessee at the outset submitted that the notices issued by the Ld. CIT(A) ,could not be served on the assessee due to incomplete address and therefore the assessee could not attend the hearing on the four dates fixed for hearing. The ld counsel of the assessee also filed Affidavit of Shri Samir Kumar Saha director of the assessee company to this effect before us. The ld AR also referred to the appellate order and submitted that the same has been passed in a very cryptic manner without disposing the appeal on merit. The Ld. A.R therefore prayed that the interest of justice would be well served if the appeal is restored back to the file of Ld. CIT(A) so that the same could be decided on merit after affording a reasonable opportunity of hearing to the assessee.

6. The Ld. D.R on the other hand submitted that the assessee did not appear before the authorities despite several notices and therefore opposed the restoration of appeal to the ld CIT(A).

7. After hearing the rival submissions, perusing the Affidavit filed by the assessee and also examining the records placed before us, we find that the assessee could not appear before the Ld. CIT(A) due to non service of notices owing to incomplete

address on the said notices. The assessee has placed the correct address before the bench which is as under:

*NARAYANPUR, P.O. RAJARHAT-GOPALPUR, NORTH 24 PARGANAS, KOLKATA-700136, LAND MARK: SOAD FACTORY (SABAN FACTORY) BUS STOP, EMAIL ID: [accounts1@fourstarinternational.com](mailto:accounts1@fourstarinternational.com), MOBILE No.: 9830177357.”*

We observe that the assessee's appeal was decided ex-parte when the assessee failed to turn up on the dates fixed for hearings due to incorrect address on the records. However we note that the Id CIT(A) has not dealt with and disposed off the issues on merits as mandated by the provisions of section 250(6) of the Act which provides that the Id. CIT(A) would formulate the points in dispute and thereafter records reasons in support of his conclusion on those points. Therefore in the interest of justice and fair play, the assessee deserves to be given one more opportunity to defend its case before the Ld. CIT(A). Accordingly we restore the appeal to the file of the Ld. CIT(A) with the directions to decide the same on merits after affording the assessee a reasonable opportunity of hearing to the assessee. Simultaneously we also direct the assessee to cooperate in the disposal of this appeal.

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

Order is pronounced in the open court on 19<sup>th</sup> July, 2023

Sd/-

Sd/-

(Rajpal Yadav /राजपाल यादव)

(Rajesh Kumar/राजेश कुमार)

Vice-President/उपाध्यक्ष

Accountant Member/लेखा सदस्य

Dated: 19<sup>th</sup> July, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Exim Overseas (P) Ltd., Narayanpur, P.O-Rajarhat, Gopalpur, 24 Parganas (North)-700136.
2. Respondent – ITO, Ward-DCIT, Circle-11(1), Kolkata

3. Ld. CIT(A)- 4, Kolkata (Sent through e-mail)
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata

1. Date of Dictation.....
2. Date on which the typed order is placed before the dictating Member and other Member.....
3. Date of which the order came back to Sr. PS.....
4. Date of which the file goes to the Bench Clerk.....
5. Date of which the file goes to the O.S.....
6. Date of dispatch of the order.....