

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

**I.T.A. No. 51/Kol/2023**  
**Assessment Year: 2015-16**

<b>Kalyani Barter Private Limited</b> 499/2-H/1, First Floor Plot No. 10-11-12 Pandav Road Vishwas Nagar Delhi - 110032 [PAN : AACCK7579D]	Vs	ACIT, Circle-2(1), Kolkata
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Chirag Desai (on behalf of Miraj D. Shah, AR)
Revenue by :	Shri Braj Kishore Singh, JCIT, CIT D/R

सुनवाई की तारीख/Date of Hearing : 13/07/2023  
घोषणा की तारीख /Date of Pronouncement: 24/07/2023

आदेश/ORDER

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter the "Id. CIT(A)") dated 09/01/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act"), for Assessment Year 2015-16.

2. At the outset the Id. Counsel for the assessee submitted that the Id. CIT(A) has passed an *ex-parte* order in this case without passing a speaking order and dealing with the merits of the case dismissing the appeal for non-prosecution by applying the judgment of the ITAT Delhi Bench in the case of *Multiplan Indian P. Ltd. 38 ITD 320, ITAT Delhi*. He prayed that the appeal be set aside to the file of the Id. CIT(A) for adjudication on merits.

The Id. D/R, though not leaving his grounds, did not oppose to this contention of the assessee.

3. After perusing the order passed by the Id. CIT(A), we find that the assessee has not appeared before the Id. CIT(A) and hence *ex-parte* order was passed dismissing the appeal of the assessee for . We find that the Id. CIT(A) has not disposed off the case on merits and has passed non-speaking order. This is not permissible in view of the provision of Section 250(6) of the Act which provides that the order of Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. Hence, in the interest of fairplay and justice, we deem it fit to restore the issue to the file of the Id. CIT(A), for *de-novo* adjudication, in accordance with law, after giving the assessee adequate opportunity of being heard, on the grounds of violations of the principles of natural justice. The Id. CIT(A) is directed to pass a speaking order after dealing with the merits of the case.

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

Order pronounced in the Court on 24<sup>th</sup> July, 2023 at Kolkata.

Sd/-

(DR. MANISH BORAD)  
ACCOUNTANT MEMBER

Kolkata, Dated 24/07/2023

*SC S.P.*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Kolkata