

**IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'SMC', KOLKATA**

[Before Shri Sonjoy Sarma, Judicial Member &  
Shri Girish Agrawal, Accountant Member]

**I.T.A. No. 676/Kol/2023**  
**Assessment Year : 2006-07**

Jhankeswari Mata Co-Op Labour Contract And Construction Society Ltd.	Vs.	ACIT, Circle-1, Burdwan
PAN: AAAAJ 2912 P		
Appellant		Respondent

Date of Hearing	16.08.2023
Date of Pronouncement	17.08.2023
For the Assessee	None
For the Revenue	Shri Avijit Adhikari, JCIT

**ORDER**

**Per Sonjoy Sarma, JM:**

This appeal of the assessee for the assessment year 2006-07 is directed against the order dated 26.05.2023 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the Id. CIT(A)']. The assessee has raised the following grounds of appeal:

*"1. For that passing of ex-parte appellate order by dismissing the appeal for non compliance is bad in law.*

*2. For that NFAC failed to appreciate the fact that the appellant fully previously attended in appeal hearing before the jurisdictional CIT(A) in physical hearing and requested an adjournment. Meanwhile said appeal migrated to NFAC in faceless regime and appellant was in dark about said development.*

*3. For that appellant society has ceased its business operation and other activities long ago and as a result there was no official or staff in the said society to follow the intimations from the NFAC in such disorganised state.*

*4. For that secretary of defunct appellant society is a village illeterate old person having no knowledge about the electronic mode of communication from NFAC. Hence there is a reasonable cause for said non compliance.*

5. For that appellant fully cooperated in the assessment proceeding and furnished all relevant documents which has fully been recorded by the AO in assessment order and will now fully comply the NFAC direction if the said order is set aside and file is restored back by the Hon'ble bench to the NFAC for fresh adjudication and appellant is armed with all relevant documents to face the first appeal proceeding.

6. For that appellant may modify the grounds.”

2. At the time of hearing no one appeared on behalf of the assessee. However, on the perusal of the record, we find that the instant order passed by the ld. CIT(A) is an ex-parte order and assessee did not get any opportunity to file relevant document/submission before the authorities below 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. Since none of the notices for hearing of the appeal was received by the assessee. Thus, the assessee referring to ground no. 1 of the appeal, it has prayed that grounds raised in the instant appeal may be restored to the ld. CIT(A) for adjudicating afresh after providing reasonable opportunity of being heard.

3. We after hearing the ld. DR and perused the records placed before us. Through ground no. 1 of 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 four 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 it is an *ex-parte* order. Under these given facts and circumstances, we restore the matter in the instant appeal to the file of ld. CIT(A) for adjudicating afresh to pass a speaking order 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. CIT(A), then the ld. CIT(A) can proceed to pass the order in accordance with law.

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

Order pronounced in the open court on 17.08.2023

Sd/-

Sd/-

(Girish Agrawal)  
Accountant Member

(Sonjoy Sarma)  
Judicial Member

Dated:17.08.2023  
*Biswajit, Sr. PS*

Copy of the order forwarded to:

1. Appellant- Jhankeswari Mata Co-Op Labour Contract And Construction Society Ltd., Musharu, Poshla, Burdwan-713127.
2. Respondent – ACIT, Circle-1, Burdwan.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata