

आयकर अपीलीय अधिकरण
कोलकाता 'सी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA**

श्री राजेश कुमार, लेखा सदस्य

एवं

श्री संजय शर्मा, न्यायिक सदस्य

के समक्ष

Before

SRI RAJESH KUMAR, ACCOUNTANT MEMBER

&

SONJOY SARMA, JUDICIAL MEMBER

I.T.A. No.: 420/KOL/2022

Assessment Year: 2012-13

Manya Mercantile Pvt. Ltd.....Appellant
[PAN: AAHCM 3744 M]

Vs.

ITO, Ward-7(1), Kolkata.....Respondent

Appearances by:

Sh. Siddarth Agarwal, Adv., appeared on behalf of the Assessee.

Sh. Arun Kanti Dutta, Sr. DR, appeared on behalf of the Revenue.

Date of concluding the hearing : July 31st, 2023

Date of pronouncing the order : August 18th, 2023

ORDER

Per Rajesh Kumar, Accountant Member:

This is an appeal preferred by the assessee against the order of Learned Commissioner of Income-tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] dated 13.06.2022 for the Assessment Year (in short 'AY') 2012-13.

2. The issue raised by the assessee in the first ground is against the order of Ld. CIT(A) passing *ex-parte* order without disposing off on merits of the case.

3. Ld. Counsel for the assessee, at the outset, filed an affidavit of Sh. Uttam Kumar Surana, aged 74 years who is one of the directors of the assessee company and submitted that on couple of occasions the assessee applied for adjournment before Ld. CIT(A), however, the third notice issued fixing the date of hearing on 20.05.2022 could not be complied with as the same could not be communicated to Ld. Counsel for the assessee due to medical reasons amid the problems of COVID pandemic. Ld. A/R submitted that since the order passed by the first appellate authority is *ex-parte*, the assessee needs to be given one more opportunity before Ld. CIT(A) to present the case on merit so that the principles of natural justice are satisfied.

4. Ld. D/R, on the other hand, strongly opposed the restoring of this appeal to the file of Ld. CIT(A) on the ground that the assessee has not complied to the notice issued.

5. After hearing rival contentions and perusing the material on record we find that we note that the appeal has been decided *ex-parte* by the Ld. CIT(A) when the assessee failed to turn up on the dates fixed for hearings and now, 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) on merits. 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. Simultaneously, we also direct the assessee to cooperate in the disposal of this appeal.

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

Kolkata, the 18th August, 2023.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rajesh Kumar]
Accountant Member

Dated: 18.08.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Manya Mercantile Pvt. Ltd., C/o Subash Agarwal & Associates, Advocates Siddha Gibson, 1, Gibson Lane, Suite 213, 2nd Floor, Kolkata-700 069.**
- 2. ITO, Ward-7(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata