

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “सी”, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH: KOLKATA**  
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

**I.T.A. No. 431/Kol/2019**  
**Assessment Year: 2012-13**

Anjali Suppliers Pvt. Ltd. (PAN: AAJCA 1784 D)	Vs.	ITO, Ward-12(1), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	01.08.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	22.08.2023
For the Appellant/ निर्धारिती की ओर से	Shri Miraj D Shah, A.R
For the Respondent/ राजस्व की ओर से	Shri Sunil Kumar Agarwala, CITDR

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-15 (hereinafter referred to as the Ld. CIT(A)”) dated 06.12.2018 for the AY 2012-13.

2. Issue raised in second grounds of appeal by the assessee is against the order of Ld. CIT(A) passing ex-parte order without considering the merit of the case.

3. At the outset, the Ld. Counsel for the assessee filed an affidavit of Ramgopal Prajapat dated 12.12.2022 which states that the assessee could not appear before the Ld. CIT(A) on the date designated for hearing because the notice issued by the Ld. CIT(A) was not served on the assessee. The Ld. A.R therefore prayed that in the

interest of justice and fair play the appeal may kindly be restored to the file of Ld. CIT(A) and the same should be decided after hearing the assessee on merit.

3. The Ld. D.R on the other hand submitted that the assessee has not responded on the date of hearing and therefore the arguments are devoid of any force. The ld DR stated that even before the AO the assessment was framed u/s 144 of the Act and the same is position before the Ld. CIT(A).

4. After hearing the rival contentions and perusing the material on record, we find that the order has been passed by the Ld. CIT(A) ex-parte on the back of the assessee when the assessee failed to appear on the date fixed for hearing and thus disposed off the case on the basis of material available before him. We have perused the Affidavit filed before us and find reason for non-appearance was non service of notice issued by the Ld. CIT(A) to the assessee. In our opinion, substantial justice should prevail over the technicalities and assessee should not be denied justice for frivolous reasons which were beyond the control of the assessee. In the present case we observe that notice was not served on the assessee resulting into the Ld. CIT(A) deciding the appeal ex-parte. Under the present circumstances we are of view that ends of justice would be met if the matter is restored to the file of Ld. CIT(A) to decide the same afresh after reasonable opportunity of hearing to the assessee. Accordingly we restore the appeal to the file of the Ld. CIT(A) and simultaneously direct the assessee to cooperate by filing the records/evidences as called for by the appellate authority.

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

Order is pronounced in the open court on 22<sup>nd</sup> August, 2023

Sd/-

Sd/-

(Sonjoy Sarma /संजय शर्मा)

Judicial Member/न्यायिक सदस्य

(Rajesh Kumar/राजेश कुमार)

Accountant Member/लेखा सदस्य

Dated: 22<sup>nd</sup> August, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Anjali Suppliers Pvt. Ltd., 2E, Cornfield Road, Ground Floor, Kolkata-700019.
2. Respondent – ITO, Ward-12(1), Kolkata
3. Ld. CIT(A)- 15, Kolkata
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata