

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. 1972/Kol/2018
Assessment Year: 2012-13

Business Function Consultancy Pvt. Ltd. (PAN: AACCB 1363 N)	Vs.	ITO, Ward-5(3), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	03.08.2023
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)-23, Kolkata (hereinafter referred to as the Ld. CIT(A)"] dated 19.07.2018 for the AY 2012-13.

2. At the outset the Ld. Counsel for the assessee submitted that the appeal in this case has been filed in the name of M/s Business Function Constancy Pvt. Ltd. which was merged with Emerald Properties Pvt. Ltd. vide order dated 23.12.2015 in the

scheme of amalgamation. The Ld. A.R also pointed out that even the appellate order has been passed in the name of non-existent company as the amalgamation has happened prior to that date as stated hereinabove. The Ld. A.R therefore prayed before the Bench that the assessee may be allowed to withdraw the present appeal filed in the name of non-existent entity i.e. amalgamating company and further prayed that a leave may be granted to file fresh appeal in the name of amalgamated company and delay in filing the appeal may be condoned from the date of filing of the present appeal till the communication of the order by the tribunal and further the assessee may be allowed reasonable period to file the appeal thereafter. The Ld. A.R therefore prayed before the Bench that the present appeal may kindly be dismissed with a liberty to the assessee to file fresh appeal in the name of M/S Emerald Properties Pvt. Ltd. The ld AR in defense of his prayers relied on the decision of the coordinate bench in the case of Sangit Tracon (P) Ltd. Vs ITO Ward 5(2) ,Kolkata ITA No. 355/Kol/2023 A.Y. 2012-13.

3. The Ld. D.R on the other hand left the issue to the wisdom of the Bench.

4. After hearing rival contentions and perusing the material on record, we observe that the assessee has filed the instant appeal in the name of amalgamating company which has merged with M/S Emerald Properties Pvt. Ltd. vide order dated 23.12.2015 passed by the Hon'ble Calcutta High Court. We are of the view that the appeal in the name of amalgamating company cannot be adjudicated as being non-existent entity and it has to be the name of amalgamated company. Accordingly we are dismissing this appeal of the assessee with liberty to file fresh appeal in the name of amalgamated company. Pertinent to state that the time period from the date of filing of this appeal till communication of this order plus 60 days would not be considered while reckoning limitation period for filing fresh appeal in the name amalgamated company.

5. In the result, the appeal of the assessee is dismissed in terms of observations/directions given above.

Order is pronounced in the open court on 22nd August, 2023

Sd/-

Sd/-

(Sonjoy Sarma /संजय शर्मा)

(Rajesh Kumar/राजेश कुमार)

Judicial Member/न्यायिक सदस्य

Accountant Member/लेखा सदस्य

Dated: 22nd August, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Business Function Consultancy Pvt. Ltd., 77, N.S. Road, 5th Floor, Room No. 5, Kolkata -700001
2. Respondent – ITO, Ward-5(3), Kolkata
3. Ld. CIT(A)-23, Kolkata
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata