

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH :: NAGPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER &
SHRI DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA Nos.190 to 196/NAG/2023
(A.Y. 2011-12 to 2017-18)

D.P. Jain & Co. Infrastructure Pvt. Ltd., U/6, Himalaya Accord, Opp. Law College, Amrawati Road, Nagpur. PAN: AACCD 1376 K	vs	ACIT, Central Circle-1(3), Nagpur.
Appellant		Respondent

Assessee by	:	Shri Rajesh V. Loya, CA
Revenue by	:	Shri Kailash Kanojiya, Sr.DR
Date of hearing	:	25/08/2023
Date of pronouncement	:	29/08/2023

O R D E R

Per PARTHA SARATHI CHAUDHURY, JM:

This bunch of seven appeals preferred by the assessee emanates from the separate orders of Commissioner of Income Tax [Appeals]-3, Nagpur, (for short 'CIT(A)') all dated 30.05.2023 for A.Ys. 2011-12 to 2017-18 as per the grounds of appeals on record.

2. At the outset, Id.AR for the assessee appearing through virtual hearing submitted that in all these matters, it is an *ex-parte* order passed by the Id. CIT(A) and that there has been no adjudication on merits by the first appellate authority. Therefore, he prayed that one final opportunity may be given to present their case on merits before the Id. CIT(A).

3. *Per contra*, Id.DR countered the request of the assessee by submitting that as evident in the order of the Id. CIT(A), there were 16 hearing notices served on the assessee providing opportunity of hearing. The assessee has not attended in any of these notices and, therefore, it is not just to provide another opportunity to the assessee. He strongly recommended for dismissing the appeals.

4. Thereafter, Id.AR for the assessee submitted that the submissions of Id.DR are correct that 16 opportunities of hearing were provided to the assessee, but out of these 16 notices for hearing, 12 notices were served on the assessee during the period of Covid-19 pandemic during which it was difficult for making proper representation through evidences/documents at that point of time before the first appellate authority. Id.AR also accepted that for the other 04 opportunities given, the assessee should have appeared before the Id. CIT(A) and this mistake has been confessed by the Id.AR while making his submissions.

5. We have perused the materials/documents on record and the orders passed by the first appellate authority. We also heard the rival submissions of the parties herein. Admittedly all these are *ex-parte* orders passed by the Id. CIT(A). The rights and liabilities of the parties herein have not been substantially adjudicated by the Id.CIT(A). This was for the reason that in spite of providing hearing

opportunity to the assessee, there was no compliance by the assessee before the Id. CIT(A). We observe that there were total 16 opportunities given, however, out of these 16 opportunities, 12 opportunities of hearing are covered within the Covid-19 pandemic. For the rest of 04 opportunities, which has been fairly confessed and conceded by the Id.AR that they should have complied with the same and should have appeared before the Id. CIT(A). Considering the submissions of the parties and facts and circumstances, we are of the view that the ends of justice would be served only by proper adjudication on merits by the Id. CIT(A) considering the detailed submissions and evidences that would be filed before him by the assessee, then he can verify and examine the facts along with those evidences and can come out with a speaking order. Further, the essence of income tax legislation is that the welfare of the assessee taxpayer, is always looked into as far as possible within the realms of law and in this case, when the Id.AR for the assessee has accepted his mistake for not appearing before the Id. CIT(A) and in the given circumstances where Covid-19 pandemic was also prevailing and substantial part of the hearing notices were covered in the same Covid period, therefore, we are inclined that one final opportunity should be given to the assessee for representing its case on merits before the Id.CIT(A). In view thereof, we set aside the respective orders of the Id. CIT(A) and remand the matters back to their respective files for adjudication as per law complying with the principles of natural justice,

and we also direct the assessee that this time being the final opportunity, they should comply with all the directions of the Department and represent their cases on merits before the Id. CIT(A). With these directions, all these appeals of the assessee stands allowed for statistical purposes.

6. In the result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced in open Court on 29th August, 2023.

Sd/-
(DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 29th August, 2023

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
5. The DR, ITAT, Nagpur Bench, Nagpur.
6. Guard File.

By Order

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.