

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'C', KOLKATA

[Before Dr. Manish Borad, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 745/Kol/2022
Assessment Year : 2012-13

M/s. Clover Dealers Pvt. Ltd.	Vs	ACIT, Circle-6(2), Kolkata
PAN: AADCC 0098 C	.	
Appellant		Respondent

Date of Hearing	09.11.2023
Date of Pronouncement	20.11.2023
For the Assessee	Shri S.R. Rao, Advocate
For the Revenue	Shri Rakesh Kumar Das, CIT, DR

ORDER

Per Sonjoy Sarma, JM:

This is an appeal filed by the assessee pertaining to the assessment year (in short 'A.Y.') 2012-13 is directed against the order of Ld. CIT(A)-17, Kolkata dated 20.03.2017 which is arising out of the assessment order passed u/s 144 of the Income Tax Act, 1961(in short 'the Act') dated 12.03.2015.

2. At the outset, we find that there is a delay of 1277 days in filing of the appeal by the assessee. We after perusing the petition for condonation are convinced that the assessee was prevented by sufficient cause from filing the appeal in time and hence delay is condoned and appeal is admitted.

3. At the outset, ld. Counsel for the assessee submitted that the order of the ld. CIT(A) is an *ex-parte* order 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 grounds 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.

4. Per contra, ld. DR was fair enough not to oppose this request of the ld. counsel for the assessee.

5. We have heard the rival contentions and perused the records placed before us. Through grounds, 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.

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

Order pronounced in the open court on 20.11.2023.

Sd/-

(Manish Borad)
Accountant Member

Sd/-

(Sonjoy Sarma)
Judicial Member

Dated: 20.11.2023
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s. Clover Dealers Pvt. Ltd., 16th Floor, Unit No. 1608, Godrej Genesis, Plot-XI, Sector-V, Kolkata-700091.
2. Respondent – ACIT, Circle-6(2), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata