

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

श्री राजेश कुमार, लेखा सदस्य
के समक्ष

Before

SRI RAJESH KUMAR, ACCOUNTANT MEMBER

I.T.A. No.: 785/KOL/2023

Assessment Year: 2015-16

Joy Tara Enterprise.....Appellant
[PAN: AAJFJ 2472 L]

Vs.

ITO, Ward-2(1), Asansol.....Respondent

Appearances:

Assessee represented by: Sh. Udayan Dasgupta, Adv.

***Department represented by: Smt. Archana Gupta, Addl. CIT
(D/R).***

Date of concluding the hearing : October 30th, 2023

Date of pronouncing the order : November 30th, 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 Ld. 'CIT(A)'] dated 26.05.2023 for the Assessment Year (in short 'AY') 2015-16.

2. At the outset it was pointed out that the appeal is barred by limitation by 2 days. After hearing the rival sides on the issue of delay and being satisfied with the reasons put across, we are inclined to condone the delay.

3. Ld. Counsel for the assessee has challenged the order of Ld. CIT(A) on the ground that the same was passed *ex-parte* without providing reasonable opportunity of being heard to the assessee and without deciding on merits of the case.

4. After hearing the rival contentions and perusing the material on record, and the impugned appellate order, we observe that Ld. CIT(A) has decided the appeal *ex-parte* without deciding the same on merit when the assessee failed to respond to three notices issued on 18.02.2021, 08.02.2023 & 09.05.2023. We have perused the provisions of Section 250(6) of the Act and find that Ld. CIT(A) while passing the appellate order has to state the issue for determination, the decision thereof and reasons for such decision qua each issue raised by the assessee in the appeal which has not been done by the appellate authority. Therefore, in our opinion, the order passed by Ld. CIT(A) cannot be sustained. We therefore, restore this appeal back to the file of Ld. CIT(A) with the direction to decide the same on merit after giving reasonable opportunity of hearing to the assessee.

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

Kolkata, the 30th November, 2023.

Sd/-
[Rajesh Kumar]
Accountant Member

Dated: 30.11.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Joy Tara Enterprise, Vill.-Rashumpur, P.O.-Kapista, Asansol, Paschim Bardhaman-713 315.**
- 2. ITO, Ward-2(1), Asansol.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata