

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

[Before Shri Sonjoy Sarma, Judicial Member &
Shri Girish Agrawal, Accountant Member]

I.T.A. Nos. 1253 & 1254/Kol/2023
Assessment Year : 2011-12 to 2012-13

Durga Properties	vs	ITO, Ward-46(3), Kolkata
PAN: AAFFD 5645 P		
Appellant		Respondent

Date of Hearing	23.01.2024
Date of Pronouncement	25.01.2024
For the Assessee	Shri Giridhar Dhelia & Shri Rajeeva Kumar, AR
For the Revenue	Shri B.K. Singh, JCIT (Sr. DR)

ORDER

Per Sonjoy Sarma, JM:

The captioned appeals are filed by the assessee directed against two separate orders dated 22.09.2023 by ld. CIT(A), NFAC for A.Y. 2011-12 and 2012-13 respectively arising out of two separate assessment orders passed by the ld. AO.

2. The ld. AR appeared on behalf of the assessee submitted that the impugned orders challenged before the Tribunal are ex-parte order and nothing has been dealt on merit except reiterating the assessment order on the disallowance/addition made by the AO. The ld. AR further stated that while passing the impugned orders by the ld. CIT(A), assessee could not get any opportunity to file its submission and other relevant details. Therefore, prayed before the bench by stating that grounds of appeal raised in the instant appeal may be restored to the ld. CIT(A) for fresh adjudication after providing reasonable opportunity of being heard to the assessee.

3. Per contra, the ld. DR opposed to the request made by the ld. AR of the assessee since the ld. CIT(A) has issued several consecutive notices to the assessee but assessee did not avail such opportunities provided by the ld. CIT(A) and remain silent before the ld. CIT(A) while passing the impugned orders against the assessee.

4. We have heard rival submission and perused the record placed before us. On perusal of the impugned orders, we notice that the instant submission made by the AR of the assessee has merits as the impugned order challenged before the bench where the ld. CIT(A) merely reproduce the grounds of appeal raised by the assessee and on 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 submission at the time of hearing before the ld. CIT(A). Under these given facts and circumstances we feel it necessary to restore both the appeals filed by the assessee to the file of ld. CIT(A) for adjudicating afresh by passing a speaking order by considering the submission if any made by the assessee before him after giving reasonable opportunity of being heard to the assessee.

5. In the mean time, we also direct the assessee to remain vigilant and file all necessary supported documents against grounds of appeal taken by the assessee and should not take further adjournment unless otherwise required for reasonable

cause. Even in the case after providing sufficient opportunity to the assessee there is no compliance on the part of assessee before the ld. CIT(A) then the ld. CIT(A) can proceed to pass a speaking order in accordance with law.

6. In terms of the above both the appeals of the assessee are allowed for statistical purposes.

7. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 25.01.2024

Sd/-

Sd/-

(Girish Agrawal)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 25.01.2024
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant – Durga Properties, 182/4, Dharmatala Road, Salkia, Howrah-711106.
2. Respondent – ITO, Ward-46(3), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata