

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.1311/Kol/2023
Assessment Year: 2008-09**

Eastern Polypack Pvt. Ltd. C/o Subash Agarwal & Associates, Advocates, Siddha Gibson, 1, Gibson Lane, Suite 213, 2 nd floor, Kolkata-700069. (PAN: AABCE5756B)	Vs.	Income Tax Officer, Ward- 3(1), Kolkata.
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Siddharth Agarwal, Advocate
Respondent by : Shri Subhro Das, Addl. CIT, Sr. DR

Date of Hearing : 31.01.2024
Date of Pronouncement : 07.02.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. Addl./JCIT(A)-11, Delhi, vide order No. ITBA/APL/S/250/2023-24/1058167612(1) dated 23.11.2023 passed against the assessment order by ITO, Ward-3(1), Kolkata u/s.147/143(3) of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 22.02.2016 for AY 2008-09.

2. Though assessee has raised as many as seven grounds of appeal but in ground no.1 assessee has contested that Ld. CIT(A) passed an ex parte order without considering the written submission filed by the assessee along with supporting documents. Thus, according to Ld. Counsel, the dismissal of appeal of the assessee by the Ld. CIT(A) is not justified. According to Ld. CIT(A), as noted by him in para 3,

assessee has not pursued the appeal despite being granted several opportunities. He thus dismissed the appeal of the assessee against which it is before the Tribunal.

3. Before us, Ld. Counsel for the assessee emphasizing on ground no. 1, referred to page 23 of the paper book which is the e-proceeding response acknowledgement in respect of written submissions along with supporting documents filed and uploaded by the assessee against the notice of hearing dated 01.11.2023 issued by the Ld. CIT(A). Assessee had furnished its written submissions along with annexure on 23.11.2023, which has not been considered while disposing the appeal of the assessee by ld. CIT(A). Copy of written submission furnished before the Ld. CIT(A) as acknowledged in the e-proceeding response acknowledgment is also placed in the paper book from page nos. 25 to 61. The said written submission is a detailed one, elaborating various aspects of grounds taken by the assessee in the appeal before Ld. CIT(A).

3.1. Section 250(6) cast a duty on Ld. CIT(A) to pass an order in appeal which should state the points for determination and a decision as well as the reason for arriving at such decision. In the present case before us, even though assessee has made its submissions along with supporting documents which is duly acknowledged by the system generated e-proceeding response acknowledgment placed on record, compliance has not been met while disposing of the appeal by Ld. CIT(A). Accordingly, we find it proper to remit the matter back to the file of Ld. CIT(A) for meritorious disposal of the grounds taken by the assessee at the first appellate stage by passing a speaking order. Needless to say that assessee be given reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal. Accordingly, ground no. 1 taken by the assessee is allowed for statistical purposes.

4. In the result, Appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 07th February, 2024

Sd/-
(Sanjay Garg)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 07th February, 2024

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent.
 3. Addl/JCIT(A)-11, Delhi
 4. CIT
 5. DR, ITAT, Kolkata Bench, Kolkata
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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata