

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

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

I.T.A. No. 901/Kol/2023
Assessment Year : 2015-16

AKT Construction Private Limited PAN: AALCA 2948 P Appellant	vs	ITO, Ward-10(3), Kolkata Respondent
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Date of Hearing	31.01.2024
Date of Pronouncement	02.02.2024
For the Assessee	Shri Rakesh Jain, AR
For the Revenue	Shri P.P. Barman, Addl. CIT

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2015-16 is directed against the order dated 08.05.2023 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the Id. CIT(A)'].

2. At the outset, we find that there is a delay of 52 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, Id. Counsel for the assessee submitted that the order of the Id. 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 Id. 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 three 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 02.02.2024.

Sd/-

Sd/-

(Girish Agrawal)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 02.02.2024
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- AKT Construction Private Limited, 150/1, M.G. Road, Budge Budge, Kolkata-700137.
2. Respondent – ITO, Ward-10(3), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata