

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

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

**I.T.A. Nos. 866 & 867/Kol/2023**

**Assessment Year : 2010-11**

|  |    |                         |
|--|----|-------------------------|
| Ekadant Ambuja Infrastructure Development Pvt. Ltd. (formerly known as Vinayaka Gilts & Securities Pvt. Ltd.)<br><br>PAN: AABCV 0091 J | vs | ITO, Ward-5(3), Kolkata |
| Appellant  |    | Respondent              |

|                       |  |
|-----------------------|--|
| Date of Hearing       | 05.02.2024                                   |
| Date of Pronouncement | 22.02.2024                                   |
| For the Assessee      | Mr. N.S. Saini, AR & Priyanka Salarpuria, AR |
| For the Revenue       | Mr. Jitendra Kantilal Surti, JCIT            |

**ORDER**

**Per Sonjoy Sarma, JM:**

The captioned appeals are filed by the assessee directed against two separate orders dated 01.08.2017 & 21.06.2023 respectively by Id. CIT(A), NFAC relating to A.Y. 2010-11.

2. There is a delay of 2150 days in filing the Appeal No. 866/Kol/2023 on the part of assessee. In this regard, the assessee has filed stating peculiar circumstances on account of which the delay has been occurred. Considering the same, we condone the delay of filing the appeal for adjudication.

3. The facts arising from the records are that Id. ITO, Ward-5(3), Kolkata has passed an order u/s 143(3)/147 vide order dated 28.03.2016.

4. Aggrieved by the above order, assessee preferred an appeal in the online mode on 09.05.2016 under Acknowledgement No. 16880269109C516 and filed copy of the said appeal manually on

11.05.2016 in the office of CIT(A)-2, Kolkata. Subsequently, the online appeal filed by the assessee was numbered as CIT(A), Kolkata-2/10166/2016-17 and the manual appeal was numbered as 411/CIT(A)-2/2016-17 and same was again re-numbered as CIT(A), Kolkata-2/11297/2016-17 (Manual Appeal Register Number 411).

5. Immediately after filing of the aforesaid appeal, assessee has received notice from the office of Id. CIT(A) by informing about fixing of the hearing of the case on 03.07.2017 quoting the Manual Appeal No. CIT(A), Kolkata-2/11297/2016-17. Similarly, another notice was issued by quoting Appeal No. CIT(A), Kolkata-2/10166/2016-17 by fixing on 03.07.2017. The Id. AR getting the information regarding pendency of appeal filed adjournment application dated 07.07.2017 for praying to re-fix the matter after 12.07.2017. Accordingly, both the appeals were re-fixed for hearing on 28.07.2017. Surprisingly, the Id. AR noticed that on 01.08.2017, the appeal of the assessee being no. 411/CIT(A)-2/2016-17 dismissed on 01.08.2017 on getting the information about dismissing of the appeal. Assessee immediately filed a petition u/s 154 of the Act by which requesting before the Id. CIT(A) for restoration of the appeal. Similarly, the assessee also filed an application u/s 154 of the Act on 04.10.2017 for recalling the order passed against the assessee since appeals are pending before him on same cause of action. However, till his date no petition has been disposed off. The Id. AR stated that in order to avoid multiplicity of proceeding assessee did not file any second appeal against the impugned order passed by Id. CIT(A) on 01.08.2017. The assessee has surprised to receive order from NFAC, Delhi Appeal No. CIT(A),

Kolkata-2/11297/2016-17 (Manual Appeal Register Number 411) dated 21.06.2023 dismissing the appeal of the assessee for the reason that appeal has been already disposed of by ld. CIT(A)-2, Kolkata vide order dated 01.08.2017 as well as 21.06.2023. Since both the orders are arising from same assessment order dated 28.03.2016. The ld. AR therefore, prayed before the bench to set aside both the orders passed by ld. CIT(A) with the direction to restore back to the file of ld. CIT(A) to decide the issue afresh along with appeal no. CIT(A), Kolkata-2/10166/2016-17 which is still pending before ld. CIT(A) for adjudication.

6. We after hearing the submission of both the parties and considering the material available on record remand back the impugned orders to ld. CIT(A) to decide the same afresh for affording reasonable opportunity of being heard to the assessee along with online appeal no. CIT(A), Kolkata-2/10166/2016-17. 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 22.02.2024

Sd/-

Sd/-

(Dr. Manish Borad)  
Accountant Member

(Sonjoy Sarma)  
Judicial Member

Dated: 22.02.2024  
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant – Ekadant Ambuja Infrastructure Development Pvt. Ltd. (formerly known as Vinayaka Gilts & Securities Pvt. Ltd., 4-A, Swaika Center, 101-A, Pollock Street, 1<sup>st</sup> Floor, Kolkata-700001.
2. Respondent – ITO, Ward-5(3), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata