

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

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

I.T.A. No. 989/Kol/2023
Assessment Year: 2012-13

Mangalkamna Commosale Private Limited	vs	ITO, Ward-4(2), Kolkata
PAN: AAHCM 3780 B		
Appellant		Respondent

Date of Hearing	20.03.2024
Date of Pronouncement	21.03.2024
For the Assessee	None
For the Revenue	Shri Jitendra Kantilal Surti, JCIT

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2012-13 is directed against the order dated 20.07.2023 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the Id. CIT(A)']. The assessee has raised the following grounds of appeal:

- "1. For that the Id. CIT(A) erred in deciding the appeal ex-parte without allowing the appellant any proper opportunity of being heard.*
- 2. For that the appellant craves leave to produce additional evidences in terms of Rule 46A of the Income Tax Rules, 1962.*
- 3. For that the order passed by the Id. CIT(A) is bad in law since the Id. CIT(A) has not decided the issues ground wise in respect of the grounds raised by the appellant in the memo of appeal.*
- 4. For that the Id. CIT(A) is bad in law since the order passed is not any speaking order nor the Id. CIT(A) has looked into the assessment records and relevant materials to conclude that the order of the Id. AO cannot be interfered with.*
- 5. For that on the facts and in the circumstances of the case the order passed by the Id. CIT(A) is not maintainable.*

6. For that the order of the ld. AO be modified and the assessee be given relief prayed for.

7. For that the assessee craves leave to add, alter or amend any ground before or at the time of hearing.”

2. At the time of hearing no one appeared on behalf of the assessee. However, on the perusal of the record, we find that the instant order passed by the ld. CIT(A) is an *ex-parte* order and assessee did not get any opportunity to file relevant document/submission before the authorities below and nothing has been dealt on merits except reiterating assessment order on the disallowances/additions made by the ld. 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 ground no. 1 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.

3. We after hearing the ld. DR and perused the records placed before us. Through ground no. 1 of 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 four 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.

14. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 21.03.2024.

Sd/-

Sd/-

(Girish Agrawal)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 21.03.2024
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Mangalkamna Commosale Private Limited, 1/1, Ganguly Lane, 2nd Floor, Kolkata-700007.
2. Respondent – ITO, Ward-4(2), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata