

**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. 244/Kol/2019**  
**Assessment Year : 2012-13**

Itemax Engineering Services Pvt. Ltd.	vs	DCIT, Circle-2(1), Kolkata
PAN: AACCD 3977 A		
Appellant		Respondent

Date of Hearing	21.03.2024
Date of Pronouncement	22.03.2024
For the Assessee	Shri G. Banerjee, FCA
For the Revenue	Shri Rakesh Kumar Das, CIT, DR

**ORDER**

**Per Sonjoy Sarma, JM:**

This appeal of the assessee for the assessment year 2012-13 is directed against the order dated 31.08.2018 passed by the Id. Commissioner of Income-tax (Appeals) – 1, Kolkata [hereinafter referred to as ‘the Id. CIT(A)'].

2. At the outset, the Id. Counsel for the assessee submitted that the Id. CIT(A) has decided the appeal of the assessee ex-parte. Since the assessee did not receive any notice from the Id. CIT(A) regarding hearing of the case. As such could not file its submission in order to substantiate its claim before him. Similarly, the assessment order passed against the assessee is an ex-parte order u/s 144 of the Act. The Id. Counsel submitted that assessee’s submission were not considered by the Id. CIT(A), therefore, this appeal of the assessee was not decided on merits of the case before the Id. CIT(A).

3. Therefore, the Id. Counsel for the assessee prayed before the bench that the assessee may kindly be given one more opportunity to defend its case on the merits of the case before the Id. AO by restoring this appeal to the file of Id. AO.

4. After hearing the rival parties and perusing the material on record, we observe that the assessee's appeal was decided without considering the submission on papers, although those were required to be submitted by the assessee at the time of hearing before the authorities below in income tax web portal and in the interest of justice and fairplay, the assessee deserves to be given one more opportunity to defend its case before the AO on merits. Accordingly we restore the appeal to the file of the AO with the directions to decide the same on merits by affording the assessee a reasonable opportunity of hearing. Simultaneously, we also direct the assessee to cooperate in the disposal of this appeal.

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

Order pronounced in the open court on 22.03.2024

Sd/-

(Girish Agrawal)  
Accountant Member

Sd/-

(Sonjoy Sarma)  
Judicial Member

Dated: 22.03.2024  
*Biswajit, Sr. PS*

Copy of the order forwarded to:

1. Appellant- Itemax Engineering Services Pvt. Ltd., D-14, R.S. Bithi City Centre, Durgapur, Paschim Bardhaman-713216.
2. Respondent – DCIT, Circle-2(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata