

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 1328/Kol/2023

Assessment Year: 2017-18

Manish Kumar Mandiwal 42/6, NSC Bose Road Ground Floor Tollygunge - 700040 [PAN: AVHPM8381L]	Vs	Income Tax Officer, Ward - 25(1), Kolkata
--	----	--

अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
------------------------	--------------------------

Assessee by :	Shri Miraj D. Shah, A/R
Revenue by :	Shri S.B. Chakraborty, JCIT

सुनवाई की तारीख/Date of Hearing : 06/03/2024
घोषणा की तारीख /Date of Pronouncement: 01/04/2024

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi, [hereinafter the "Id. CIT(A)"] dt. 05/10/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2017-18.

2. At the outset, the Id. Counsel for the assessee submitted that both the Id. CIT(A) as well as the Id. Assessing Officer have passed *ex-parte* order without adjudicating the case of the assessee on merits. He further submitted that, given an opportunity, the assessee has fair chances of succeeding on merits. He prayed that the issues be restored to the file of Assessing Officer for fresh adjudication on merits.

The Id. D/R, though not leaving his grounds, did not object to this prayer of the assessee.

3. We have heard rival contentions and perused the material placed before us. We find that the ld. Assessing Officer has framed a best judgment assessment u/s 144 of the Act and the ld. CIT(A) during the course of first appellate proceedings, granted the assessee numerous opportunities of being heard, but the assessee failed to appear and accordingly the ld. CIT(A) framed an *ex-parte* order dismissing the appeal of the assessee without dealing with the merits of the case. However, before us, the ld. Counsel for the assessee has prayed that one more opportunity be granted to the assessee for pursuing its appeal on merits. We, being fair to both the parties and in the interest of justice, deem it fit to restore the issues to the file of the Assessing Officer for fresh adjudication on merits, in accordance with law. Needless to mention that the assessee shall file all necessary documents/evidence in support of its claims and be vigilant till the disposal of its appeal.

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

Order pronounced in the Court on 1st April, 2024 at Kolkata

Sd/-
(DR. MANISH BORAD)
ACCOUNTANT MEMBER

Kolkata, Dated 01/04/2024

**SC S.P.*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata