आयकर अपीलीय अधिकरण, कोलकाता पीठ 'ए', कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष

Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.1315/Kol/2023
Assessment Year : 2009-10

Bihari Distributors Pvt. Ltd…..…….....…...……....Appellant
H. No.240, Ambazari Layout,
Nagpur, Maharashtra-440010.
[PAN: AADCB6286B]

vs.

ITO, Ward-14(1), Kolkata….....….….…..... Respondent

Appearances by:
Shri Miraj D. Shah, AR, appeared on behalf of the appellant.
Shri S. Datta, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 31, 2024
Date of pronouncing the order : April 29, 2024

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 13.10.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has taken the following grounds of appeal:

> *1. That the Order passed u/s 250 is bad in law as well as on facts of the case.*
>
> *2. That the Hon'ble CIT(A), NFAC erred in law as well as on facts of the case in not providing reasonable opportunity of hearing to the appellant.*
>
> *3. That the Hon'ble CIT(A), NFAC erred in law as well as on facts of the case by confirming the addition made by Ld. Assessing Officer in respect of share capital received during the year to the tune of*

Rs.14,22,39,000/- by treating it as unexplained credit u/s 68 of Income Tax Act, 1961.

4. That the appellant craves to leave, add, amend or adduce any of the grounds of appeal during the course of appellate proceedings."

3. At the outset, the ld. counsel for the assessee has invited our attention to the impugned order of the CIT(A) to submit that the same is an ex parte order. An affidavit of Shri Dilip Prasad has been filed, wherein, it has been submitted that the notices of hearing sent by the CIT(A) were sent at a different email id which was not accessed to by the assessee company. That assessee company has not been served any notice issued by the CIT(A) on the email id mentioned in form no.35 i.e. companyret@gmail.com. It has, therefore, been pleaded that since no notices of hearing were served upon the assessee, therefore, the absence of the assessee before the CIT(A) was not intentional. It has, therefore, been requested that the ex parte order of the CIT(A) be set aside and the assessee may be given an opportunity to present its case before the CIT(A).

4. Considering the aforesaid submissions of ld. counsel for the assessee, the impugned order of the CIT(A) is set aside and the matter is restored to the file of the CIT(A) for decision afresh on merits. Needless to say that the CIT(A) will give proper opportunity to the assessee to present its case.

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

Kolkata, the 29th April, 2024.

Sd/-	Sd/-
[गिरीश अग्रवाल /Girish Agrawal]	**[संजय गर्ग /Sanjay Garg]**
लेखा सदस्य/Accountant Member	**न्यायिक सदस्य/Judicial Member**

Dated:29.04.2024.
RS

Copy of the order forwarded to:
1. Bihari Distributors Pvt. Ltd
2. ITO, Ward-14(1), Kolkata
3.CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches