

आयकर अपीलीय अधिकरण
कोलकाता 'एसएमसी' पीठ, कोलकाता में
IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA

डॉ. मनीष बोर्ड, लेखा सदस्य
एवं
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य
के समक्ष
Before

DR. MANISH BORAD, ACCOUNTANT MEMBER
&
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER

I.T.A. No.: 314/KOL/2024
Assessment Year: 2017-18

Anil Kumar Mohanka.....Appellant
[PAN: ADRPM 0523 G]

Vs.

ITO, Ward-2(2), Asansol.....Respondent

Appearances:

Assessee represented by: Swati Baid, FCA.

Department represented by: Probbhash Roy, Addl. CIT, D/R.

Date of concluding the hearing : April 30th, 2024

Date of pronouncing the order : May 28th, 2024

ORDER

Per Pradip Kumar Choubey, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2017-18 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Id. Commissioner of Income-tax (Appeals)-4, Delhi [in short Id. 'CIT(A)'] dated 08.01.2024 arising out of the assessment order framed u/s 143(3) of the Act dated 11.11.2019.

2. Before entering into the merit of the case it has been submitted by the Id. Counsel for the assessee that, the impugned order is *ex-parte*, assessee failed to get sufficient opportunity to give the submissions and file relevant documents in support of its grounds raised before Id. CIT(A) as he has not

been served any notices as alleged in the CIT(A) order. Prayer was made to restore all the issues in the instant appeal to the ld. CIT(A) for fresh adjudication.

3. Ld. D/R was fair enough in not raising any objection if the issues raised in the instant appeal is restored to ld. CIT(A).

4. We have heard rival contentions and perused the records placed before us. From perusal of the impugned order, we find that there was no appearance on behalf of the assessee before ld. CIT(A) and the impugned order was passed *ex-parte*. There is nothing in the record /order that whether notices have been served to the assessee. The order of the CIT(A) only reveals thus—

S. No.	Date of issue of notice/letter	Date of fixing the case for hearing	Remarks
1.	04.01.2021	19.01.2021	Notice was sent to appellant through ITBA portal bearing DIN ITBA/NFAC/F/APL_1/2020-21/1029447332(1). No reply has been received from the appellant till date.
2.	02.11.2021	17.11.2021	Notice was sent to appellant through ITBA portal bearing DIN ITBA/NFAC/F/APL_1/ 2021-22/1036708204(1). No reply has been received from the appellant till date.
3.	26.12.2023	03.01.2024	Notice was sent to appellant through ITBA portal bearing DIN ITBA/NFAC/F/APL_1/ 2023-24/1059057843(1). The appellant has not filed any details/submissions nor filed any adjournment letter.

5. It is well settled law that order should be passed on merit. We do not find any material in the record that notices as alleged to be sent was received by the assessee.

6. We, therefore, in this view that an opportunity should be given to the assessee to present his submission and documents in support of their case before the CIT(A) by setting aside the *ex-parte* order, restore all the issues in the instant appeal to the ld. CIT(A) for fresh adjudication and to pass a speaking order after considering the submissions as well as the relevant documents to be filed by the assessee on being provided adequate opportunity and to decide in accordance with law. The assessee is directed to remain

vigilant and file necessary documents, if considered, in support of its grounds of appeal and should not take adjournment, unless otherwise required for reasonable cause.

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

Order pronounced in the open Court on 28th May, 2024.

Sd/-

[Manish Borad]

Accountant Member

Sd/-

[Pradip Kumar Choubey]

Judicial Member

Dated: 28.05.2024

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Anil Kumar Mohanka, C/o Drug Centre 179, 1st Floor, H.B. Road Post, Asansol, West Bengal, 713301.**
- 2. ITO, Ward-2(2), Asansol.**
3. CIT(A)-4, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata