

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'ए', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवालेखा सदस्य के समक्ष ,
Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.1039/Kol/2019
Assessment Year: 2012-13

M/s Priti Traders Pvt. Ltd..... Appellant
6/3, Oiabibitala Lane,
Howrah-711104.
[PAN:AAGCP5492A]

vs.

ITO, Ward-9(3), Kolkata..... Respondent

Appearances by:

Shri Rajiv Kumar Choudhary, Advocate, appeared on behalf of the appellant.
Shri B. K. Singh, JCIT-Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : March 07, 2024

Date of pronouncing the order : June 07, 2024

ORDER

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

The present appeal has been preferred by the assessee against the order dated 02.05.2018 of the Commissioner Of Income Tax (Appeals)-18, Kolkata [hereinafter referred to as 'CIT(A)'] u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. At the outset, the ld. Counsel for the assessee has invited our attention to the impugned assessment order to submit that the same is an ex parte order passed by the Assessing Officer u/s 144 r.w.s. 143(3) of the Act. The ld. Counsel has further invited our attention to the impugned order of the ld. CIT(A) to submit that the same is also an ex parte order. The ld. Counsel has submitted that both the lower authorities have not given proper opportunity to the assessee to present its case and hence, the principles of natural justice have been violated.

It has been submitted by way of a written submission that none of the notices issued by the Assessing Officer during the assessment proceedings have ever been served upon the assessee as the office of the assessee most of the times remained closed as there was a dispute going on between both the directors holding the office, resulting into ex parte order of the Assessing Officer. It has been further submitted that the ld. CIT(A), in fact, failed to give proper opportunity to the assessee to present its case before him. That the ld. CIT(A) issued notices of hearing on 22.03.2018 & 05.04.2018 through email as written in the impugned order of the CIT(A), which were near to the closure of accounting year and the said notices escaped attention of the assessee. That even the time gap between both the notices was very less. Thereafter, the ld. CIT(A) passed the ex parte order on 02.05.2018 dismissing the appeal of the assessee for want of prosecution. The ld. Counsel has submitted that the assessee has a fair case on merits and the assessee may be given an opportunity of hearing before the ld. CIT(A).

3. The ld. DR, on the other hand, has relied upon the findings of the lower authorities and has submitted that the assessee has failed to appear before the lower authorities.

4. We have heard the rival contentions and gone through the record. In this case, the assessee has duly demonstrated the reasons and compulsions for which the assessee was unable to represent its case before the lower authorities. In view of this, the principles of natural justice will be well-served if the assessee is given an opportunity of hearing before the CIT(A). The impugned order of the CIT(A) is accordingly set aside and the matter is restored to the file of the CIT(A) with a direction to decide the appeal of the assessee afresh on merits.

The Id. CIT(A) will also give opportunity to the assessee to furnish necessary details and documents and if any such details or documents are furnished by the assessee, the Id. CIT(A), if so deems fit, may call remand report from the Assessing Officer thereupon and thereafter, will decide the issue accordingly. Needless to say that the assessee will promptly represent and furnish necessary details before the CIT(A) or before the Assessing Officer as the case may be and will not contribute any unnecessary delay in disposal of the appeal.

5. With the above observations, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 7th June, 2024.

Sd/-

[गिरीश अग्रवाल/Girish Agrawal]
लेखा सदस्य/Accountant Member

Sd/-

[संजय गर्ग/Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 07.06.2024.

RS

Copy of the order forwarded to:

1. M/s Priti Traders Pvt. Ltd
2. ITO, Ward-9(3), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

Pronounced under Rule 34 of the I.T.A.T. Rules

Sd/- Sanjay Garg

//True copy//

By order

Assistant Registrar, Kolkata Benches