

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'C', KOLKATA

[Before Dr. Manish Borad, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 1334/Kol/2023
Assessment Year : 2013-14

Rakesh Khan	vs	ITO, Ward-50(1), Kolkata
PAN: BIGPK 8189 M		
Appellant		Respondent

Date of Hearing	11.06.2024
Date of Pronouncement	12.06.2024
For the Assessee	Miraj D. Shah, AR
For the Revenue	Bonnine Debbarma, JCIT, Sr. DR

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2013-14 is directed against the order dated 31.10.2023 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the Id. CIT(A)'].

2. At the outset, Id. Counsel for the assessee submitted that the order of the Id. CIT(A) is an *ex-parte* and nothing has been dealt on merits except reiterating assessment order on the disallowances/additions made by the Id. AO. The assessee could not get any opportunity to file its submissions and other relevant details. Thus, the assessee referring to grounds of the appeal, it has prayed that grounds raised in the instant appeal may be restored to the Id. CIT(A) for adjudicating afresh after providing reasonable opportunity of being heard.

3. Per contra, Id. DR was fair enough not to oppose this request of the Id. counsel for the assessee.

4. We have heard the rival contentions and perused the records placed before us. Through grounds, the assessee has stated that ld. CIT(A) failed to appreciate the materials on record and passed the order *ex-parte*. On perusal of the impugned order, we noticed that the instant ground raised by the assessee has merit as in the impugned order, ld. CIT(A) merely passed by dismissing the appeal filed by the assessee and the decision part, no finding has been given. As the assessee in the instant case could not file necessary details as well as submissions at the time of hearing before the ld. CIT(A) and it is an *ex-parte* order. Under these given facts and circumstances, we restore the matter in the instant appeal to the file of ld. CIT(A) for fresh adjudication by passing a speaking order after considering the submission made by the assessee while doing so reasonable opportunity of being heard should be provided to the assessee. The assessee is also directed to remain vigilant and file necessary documents in support of its grounds of appeal and should not take any further adjournment, unless otherwise required for reasonable cause. In case after providing sufficient opportunity to the assessee, there is no compliance before the ld. CIT(A), then the ld. CIT(A) may proceed to pass the order in accordance with law.

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

Order pronounced in the open court on 12.06.2024.

Sd/-

Sd/-

(Dr. Manish Borad)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated:12.06.2024
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Rakesh Khan, Murali Kajidanga, Bamangachi, North
24 Pgs. – 743706.
2. Respondent – ITO, Ward-50(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata