

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA**

**Shri Sonjoy Sarma, Judicial Member  
Shri Sanjay Awasthi, Accountant Member**

**I.T.A. No. 545/Kol/2024  
Assessment Year: 2011-12**

**Gautam Kumar Chakraborty,  
C/o Subash Agarwal & Associates,  
Advocates Siddha Gibson, 1,  
Gibson Lane, Suite 213, 2<sup>nd</sup> Floor,  
Kolkata - 700069  
[PAN: ACGPC1705N]**

..... **Appellant**

**vs.**

**Income Tax Officer  
Ward 55(2), Kolkata- 700069** ..... **Respondent**

**Appearances by:**

Assessee represented by : Shri Siddharth Agarwal, Advocate  
Department represented by : Shri Pradip Biswas, Addl. CIT, Sr. DR

Date of concluding the hearing : July 22, 2024

Date of pronouncing the order : July 24, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2011-12 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Commissioner of Income Tax (Appeal), Gwalior dated 21.02.2024 arising out of Assessment Order dated 07.12.2016, passed under Section 144/147 of the Act.

2. The Assessee has raised the following grounds of appeal:

*"1. For that the Ld. CIT(A) was not justified in passing an ex-parte order without providing reasonable opportunity of hearing.*

*2. For that the Ld. CIT(A) ought to have considered that the reasons to believe were not provided/invalid/improper, thereby, vitiating the reopening proceedings.*

*3. For that the Ld. CIT(A) was not justified in confirming the addition made by the A.O. of Rs. 18,66,931/- under the head Long Term Capital gains.*

*4. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing."*

3. At the time of hearing, the Ld. AR stated that the impugned order passed by the Ld. CIT(A) is an ex-parte order and assessee did not get any opportunity to represent its case properly. Therefore, another opportunity may be given to the assessee so that assessee can represent its case properly before the Ld. CIT(A).

4. On the other hand, the Ld. DR objected to such prayer made by the AR of the assessee, he stated that ample opportunities have been given to the assessee before passing such impugned order. However, the assessee nor its representative filed any response in compliance to the notices issued by the CIT(A). Therefore, the Ld. CIT(A) has no other alternative but to pass as an ex-parte order. We after hearing the rival submission of the parties and perusing the material available on record. We find that the impugned order passed by the Ld. CIT(A) is an ex-parte order. Although notices were served upon the assessee but AR of the assessee did not represent the case properly and due to this reason an ex-parte order was passed against the assessee. We after considering the facts of the case, and interest of justice find it necessary to remand back the issue to the file of the Ld. CIT(A) with a

direction to re-examine the issue afresh after affording reasonable opportunity of being heard to the assessee. Assessee is also directed to appear before the Ld. CIT(A) as and when notice for hearing issued from Ld. CIT(A) on such date without any fail. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

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

***Kolkata, the 24<sup>th</sup> July, 2024.***

***Sd/-***  
**[Sanjay Awasthi]**  
**Accountant Member**

***Sd/-***  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated: 24.07.2024.  
*AK, PS*

*Copy of the order forwarded to:*

1. Gautam Kumar Chakraborty
2. Income Tax Officer, Ward 55(2), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches