

आयकर अपीलीय अधिकरण, कोलकाता पीठ "सी", कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA
श्री राजपाल यादव, उपाध्यक्ष एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Rajpal Yadav, Vice-President & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 750/Kol/2024
Assessment Year: 2012-13

Mrs. Devyani Ashra (PAN: AEBPA 9289 C)	Vs.	DCIT, Circle-22, Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	02.07.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	08.10.2024
For the Appellant/ निर्धारिती की ओर से	Mrs. Devyani Ashra
For the Respondent/ राजस्व की ओर से	Shri Arun Kumar Meena, Addl. CIT Sr. D.R

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 21.02.2024 for the AY 2012-13.

2. The assessee has challenged the order passed by the Ld. CIT(A) on the ground of being ex-parte passed in liminie besides challenging on merits. At the outset, the assessee Mrs. Devyani Ashra ,who appeared herself personally to attend the proceedings, submitted before the Bench that before the Ld. CIT(A) the appeal was decided ex-parte in liminie without considering the merits of the case. The assessee candidly admitted that there was no compliance before the Ld. CIT(A) due to the fact that the notice issued fixing the date of hearing were not served on the assessee. Further the assessee submitted that even before the AO the additions are made for the want of reply/details/submissions on behalf of assessee though the case was represented through Shri Gourav Jain, CA. Therefore, the assessee submitted that in the interest of justice and fair play one more opportunity be given so that the case could be represented on merit and decided accordingly.

3. The Ld. D.R on the other hand submitted that before the both the authorities below the assessee has not complied as there was no appearance registered by the assessee and therefore may be decided on merit at this forum itself.

4. After hearing the rival contentions and perusing the material on record, we find that before the AO though the counsel of the assessee Mr. Gaurav Jain, CA appeared however the details sought by the AO were not furnished resulting into the addition of Rs. 1,76,55,050/- on five issues. We note that even before the Ld. CIT(A) , the assessee did not appear and the case were decided ex-parte in liminie without considering the case on merit. The assessee is an advocate and solicitor by profession. Considering the pleadings of the assessee, we are of considered opinion that verification is required at the level on AO to examine the various evidences/documents. Accordingly, in the interest of justice and fair play, we restore the issue to the file of AO with the direction to decide the same afresh after affording a reasonable opportunity of hearing to the assessee. The assessee is also directed to be diligent and cooperate in the conclusion of the matter. Accordingly the appeal of the assessee is allowed for statistical purpose.

5. In the result, the appeals of the assessee is allowed for statistical purpose.

Order is pronounced in the open court on 8th October, 2024

Sd/-

Sd/-

(Rajpal Yadav /राजपाल यादव)

(Rajesh Kumar/राजेश कुमार)

Vice-President/उपाध्यक्ष

Accountant Member/लेखा सदस्य

Dated: 8th October, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Mrs. Devyani Ashra, 11/4D, Chakraberia Road (North), Kolkata-700020
2. Respondent – DCIT, Circle-22, Kolkata
3. Ld. CIT(A)- NFAC, Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata