

आयकर अपीलीय अधिकरण, कोलकाता पीठ “बी”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. No. 628/Kol/2024
Assessment Year: 2013-14

Naina Devi Commerce Pvt. Ltd. (PAN: AACCN 9537 E)	Vs.	ITO, Ward-6(3), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	30.07.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	09.10.2024
For the Appellant/ निर्धारिती की ओर से	Shri Manish Tiwari, A.R
For the Respondent/ राजस्व की ओर से	Shri P. P. Barman, Addl. CIT, Sr. D.R

ORDER / आदेश

Per Rajesh Kumar, AM:

This is an 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 31.01.2024 for the AY 2013-14.

2. At the outset, the Id. Counsel for the assessee submitted that the appellate order has been passed ex-parte by the Ld. CIT(A) thereby dismissing the appeal of the assessee in limine without discussing and deciding the issues on merit. The Ld. A.R submitted that though the Ld. CIT(A) in the appellate proceedings allowed the four hearings to the assessee on 27.11.2023, 18.12.2023, 3.1.2024 and 31.01.2024 for

which the notices were sent on the email of the accountant and therefore the assessee was not knowing about the dates of hearing. As a result, the same could not be attended before the appellate authority. The Ld. A.R therefore submitted that in the interest of justice and fair play, the assessee may kindly be given one more opportunity to present its case on merit before the Ld. CIT(A), so the same could be decided on merit.

3. The Ld. D.R on the other hand relied on the order of authorities below.

4. After hearing the rival contentions and perusing the material on record, we find that undisputedly the appellate order passed ex-parte in limine without discussing and deciding the issue on merit which is in clear violation of provision of Section 250(6) which provides that the Ld. CIT(A) has to state the point of determination and also the decision thereon and reasons for the said decision which has not been done by the appellate authority. Therefore the interest of justice would be well served if the appeal is restored to the file of Ld. CIT(A) to decide the issue on merit which is in accordance with the decision of Hon'ble Apex Court in the case of Mst. Katiji & Ors. reported in (1987) 2 SCC 107 (SC). Consequently we restore the appeal to the file of Ld. CIT(A) with the direction to decide the same on merit after giving a reasonable opportunity of hearing to the assessee.

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

Order is pronounced in the open court on 9th October, 2024

Sd/-

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)
Judicial Member/न्यायिक सदस्य

Sd/-

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 9th October, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Naina Devi Commerce Pvt. Ltd., 2, Khetra Das Kolkata, Bowbazar, S.O. Kolkata-700012
2. Respondent – ITO, Ward-6(3), Kolkata
3. Ld. CIT(A)- NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata