

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'बी', कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Rajesh Kumar, Accountant Member

I.T.A Nos.743,744&745/Kol/2023

Assessment Years: 2005-06, 2011-12, 2013-14

MPS Greenery Developers Ltd.....Appellant
MPS Enclave Commercial Building,
Midnapur, Dohijuri Jhargram,
Midnapur-721504, W.B-721504.
[PAN: AADCM1405B]

vs.

DCIT, Circle-2, MidnaporeRespondent

Appearances by:

Shri A. Sengupta, AR and P. K. Chakraborty, AR, appeared on behalf of the appellant.
Shri Prakash Nath Barnwal, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 09, 2024

Date of pronouncing the order : October 09, 2024

आदेश / ORDER

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

The captioned appeals have been preferred by the assessee against the separate orders of even date 22.05.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act') for different assessment years. Since, all the three appeals belong to the same assessee and common issues are involved, hence, these have been heard together and are being disposed of by this common order. ITA No.743/Kol/2023 for assessment year 2005-06 is taken as lead case for the purpose of narration of facts.

2. **ITA No.743/Kol/2023** – At the outset, the ld. counsel for the assessee has submitted that the impugned assessment order is ex

parte/best judgment order passed by the Assessing Officer u/s 144 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 further invited our attention to page 3 of the impugned order of the ld. CIT(A), wherein, a chart has been given by the ld. CIT(A) as to the date of notice and date of hearing and with the comments that there was no compliance/appearance on behalf of the assessee-appellant on the said dates, which dates range from 31.12.2020 to 28.04.2023. The ld. counsel has further furnished before us the copy of the order of the Hon'ble Calcutta High Court passed in W.P.4059(W) of 2015 to submit that the premises of the assessee company was sealed since 2015 by the order of the Hon'ble Calcutta High Court. The ld. counsel has also furnished a copy of the another order dated 21.12.2022 of the Hon'ble Calcutta High Court passed in C.R.M. (DB) 4060 of 2022 to submit that the Managing Director of the assessee company, Shri Pramatha Nath Manna, was in custody since September 2014 till he was ordered to be released on bail vide order dated 21.12.2022 of the Hon'ble Calcutta High Court. The ld. counsel, under the circumstances, has submitted that the absence/non-representation of the assessee before the ld. CIT(A) was not intentional but due to aforesaid circumstances. He, therefore, has prayed that the assessee may be given an opportunity to present its case before the ld. CIT(A).

3. The ld. DR could not rebut the aforesaid circumstances canvassed by the ld. AR.

4. Considering the above circumstances, in our view, the interests of justice will be well-served if the assessee is given an opportunity to present its case before the ld. CIT(A). The impugned order of the ld.

CIT(A) is, therefore, set aside and the matter is restored to the file of the ld. CIT(A) with a direction to decide the appeal of the assessee afresh on merits. The ld. CIT(A) will give proper opportunity to the assessee to produce the relevant documents, explanations and evidences and, if so deem fit, may call upon remand report from the Assessing Officer in respect of those evidences, if any, furnished and thereafter to decide the appeal on merits in accordance with law.

5. **ITA Nos.744&745/Kol/2024** – Since the facts and issues involved in both these appeals are identical to that has been discussed in ITA No.743/Kol/2024 and our findings/directions given above will mutatis mutandis apply to both these appeals also.

6. In the result, all the captioned appeals are treated as allowed for statistical purposes.

Kolkata, the 9th October, 2024.

Sd/-
[Rajesh Kumar]
लेखा सदस्य /Accountant Member

Sd/-
[Sanjay Garg]
न्यायिक सदस्य /Judicial Member

Dated: 09.10.2024.

RS

Copy of the order forwarded to:

1. MPS Greenery Developers Ltd
2. DCIT, Circle-2, Midnapore
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches