

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, KOLKATA

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER

I.T.A. No. 343/KOL/2024
Assessment Year: 2012-13

Energy Development Company Ltd. EDCL, House, 1A Elgin Road, Kolkata-700020 West Bengal [PAN No. AAACE6969K]	Vs	DCIT, Circle 12(1) Kolkata
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Ved Jain, Advocate
Revenue by :	Shri Mahare Yogesh Prabhakar

सुनवाई की तारीख/Date of Hearing : 06.11.2024
घोषणा की तारीख /Date of Pronouncement : 07.11.2024

आदेश/O R D E R

PER ANIKESH BANERJEE, JUDICIAL MEMBER:

In the instant appeal of the assessee was filed against the order of the Id. Commissioner of Income-tax (Appeals)-3, Gurugram [in brevity ‘the learned CIT (A)’], order passed under Section 250(6) of the Income-tax Act, 1961 (in brevity, ‘the Act’) for A.Y. 2012-13, date of order 30.01.2023. The impugned order was emanated from the order of the learned DCIT, Circle 12(1), Kolkata (in brevity, ‘the learned AO’), order passed under Section 143(3) of the Act, date of order 27th March 2015.



2. The appeal was filed with a delay of 321 days. The assessee filed an affidavit with condonation of delay. The assessee submitted the sufficient cause for delay in filing appeal. The ld. DR opposed for condonation of delay. The bench considered the condonation petition with sufficient cause. Accordingly, the delay for 321 days is condoned and appeal is taken for adjudication.

3. The brief facts of the case is that the assessment was completed with an addition of bogus purchase amount of ₹44,31,575/-, ₹21,40,740/- disallowance u/s 14A of the Act, ₹7,804/- the disallowance of business expenditure u/s 37(1) of the Act and ₹56,400/- disallowance for contravening Section 40A(3) of the Act.

4. Aggrieved assessee filed an appeal before the ld. CIT (A). The ld. CIT (A) adjudicated the issue ground wise but the assessee was unable to submit the evidence before the ld. CIT (A) in its favour. The impugned appeal order was passed *ex-parte* and the appeal of the assessee was dismissed. Being aggrieved on the appeal order, the assessee preferred the appeal before us.

5. We have heard the rival submissions and considered the documents available on record. The ld. Authorised Representative (in short the AR) argued and placed that the appeal order was passed *ex-parte* without considering the submissions of the assessee. So the reasonable opportunity of the assessee was denied. The ld. AR prayed for remanding the mater before the file of the ld. CIT (A) for further adjudication, *de novo*.

6. The ld. DR accepted the submissions of the ld. AR and had not made any objection. In our considered view, we remand the mater to the file of the ld. CIT (A) for further adjudication, *de novo*.



We are not expressing our view on the merits of the case which will impaired the set aside appeal proceedings. Needless to say, that the ld. CIT (A) shall provide proper and adequate opportunity of being heard to the assessee in set aside proceedings. The evidence/explanation submitted by assessee in its defence shall be admitted by the ld. CIT (A), and adjudicated on merits in accordance with law. On the other hand the assessee should be diligent and co-operate in the set aside appeal proceeding for quick disposal of the appeal

7. In the result, the appeal of the assessee bearing in **ITA No. 343/KOL/2024** is allowed for statistical purpose.

Order pronounced in the Court on 7th November, 2024 at Kolkata.

Sd/-

(RAKESH MISHRA)
ACCOUNTANT MEMBER

Kolkata, Dated 07.11.2024

**SS, Sr.Ps*

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

Sr. PS/ Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata