

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. 1775/Kol/2024
Assessment Year: 2008-09

M/s Kasturi Home Pvt. Ltd. (PAN: AADCK 0548 F)	Vs.	ITO, Ward-3(1), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	09.12.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	17.12.2024
For the assessee/ निर्धारिती की ओर से	Shri Sunil Surana, A.R
For the revenue / राजस्व की ओर से	Shri Abhijit Kundu, CITDR

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 27.06.2024 for the AY 2008-09.

2. At the outset, the Ld. Counsel for the assessee stated that the First Appellate Authority has passed the order ex-parte dismissing the appeal in limine when the assessee failed to respond on the various dates given by the First Appellate Authority. The Ld. A.R submitted that even if the assessee, no one was appeared even then Ld.

CIT(A) in terms of Section 250(6) of the Act is under obligation to state the point of determination and his decision thereon along with the reasons for taking such decision. However, nothing of the sort has been done by the Ld. CIT(A). Therefore, the assessee may kindly be given one more opportunity of presenting its case before the Ld. CIT(A).

3. The Ld. D.R on the other hand relied on the order of authorities below by submitting that the assessee was not co-operative before the appellate authority however left the issue to the wisdom of the Bench.

4. After hearing the rival contentions and perusing the material on record including the provisions of section 250(6), we note that the Ld. CIT(A) has dismissed the appeal in limine without conforming to the provisions of Section 250(6) which requires the Ld. CIT(A) to state the point for determination, decision thereon and reasons for arriving at such decision however the order has been passed in violation of said section. Under the circumstances, we are of the view that the ends of justice could be well served if the issue is restored to the file of Ld. CIT(A) to decide the same on merit after affording the 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 17th December, 2024

Sd/-

Sd/-

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

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

Dated: 17th December, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s Kasturi Home Pvt. Ltd., 85, 2nd Floor, Metcalfe Street, Kolkata-700013
2. Respondent – ITO, Ward-3(1), 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