

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'C', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member and  
Shri Rakesh Mishra, Accountant Member**

**I.T.A. Nos.2141 & 2142/Kol/2024  
Assessment Year: 2014-15**

**Vicky Prasad Shaw** ..... **Appellant**  
**20, Jelia Para Lane, Howrah-711106.**  
**(PAN: FIPPS8810C)**

vs.

**ITO, Ward-47(2), Kolkata.** ..... **Respondent**

**Appearances by:**

Shruti Sharma, appeared on behalf of the Appellant  
Ms. Ruchika Sharma, SR. DR appeared on behalf of the Respondent

Date of concluding the hearing: 31.12.2024

Date of pronouncing the order: 31.12.2024

**आदेश / ORDER**

**Per Sanjay Garg, Judicial Member :**

Both the captioned appeals have been preferred by the assessee against the separate orders dated 16.08.2024 and 19.08.2024 respectively of the Ld. Commissioner of Income Tax, (Appeal), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the "Ld. CIT(A)"] passed u/s. 250 and of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year (AY) 2014-15.

2. ITA No. 2141/Kol/2024 is relating to the quantum addition, whereas, ITA No. 2142/Kol/2024 is against the levy of penalty u/s. 271(1)(c) of the Act.

3. First, we take up ITA No. 2141/Kol/2024.

**ITA No. 2141/Kol/2024:**

4. At the outset, the Ld. Counsel for the assessee has invited our attention to the impugned order of the Ld. CIT(A) to submit that the same

is an ex parte order. A perusal of the aforesaid order of the Ld. CIT(A) would reveal that only one date of hearing was given by the Ld. CIT(A) to the assessee and notice of the said hearing was issued on e-mail on 05.08.2024 fixing the date of hearing for 09.08.2024. However, since there was no response from the assessee, the Ld. CIT(A) proceeded to decide the appeal ex parte of the assessee. We note that the Ld. CIT(A) in this case has not given proper and adequate opportunity to the assessee to present his case. Further, it is noted that there was a delay of 15 months in filing the appeal before the Ld. CIT(A). The assessee in appeal Form No. 35 has stated that the reasons for delay have been attached as per separate sheet. The Ld. CIT(A), however, noted that there was no separate sheet attached in the on line appeal filed by the assessee. It seems that there might be some technical glitch for which the condonation application/reasons for delay could not be uploaded. Moreover, the assessee could not explain the said reasons before the Ld. CIT(A) as the appeal was decided by the Ld. CIT(A) ex parte of the assessee. Moreover, in this appeal, the issue involved is relating to the year of taxability of the capital gains on execution of development agreement, which issue needs to be elaborately and factually examined in correct perspective. However, it is noted that the impugned assessment order is also an ex parte/best judgment assessment order passed u/s. 144 read with section 147 of the Act. In view of the above facts and circumstances, in our view the interests of justice will be well served if the assessee is given an opportunity to present his case before the Ld. CIT(A). The impugned order of the Ld. CIT(A) is accordingly, set aside and the matter is restored to the file of the Ld. CIT(A) for decision afresh on merits in this appeal. The Ld. CIT(A) will hear upon the application for condonation of delay as well as on merits of the case and thereafter will pass a speaking order in accordance with law. He may also call a remand report from the AO relating to the factual aspects of the case, if so required. With the above

observations, the appeal of the assessee is treated as allowed for statistical purposes.

**ITA No. 2142/Kol/2024:**

5. This appeal of the assessee is relating to the penalty imposed u/s. 271(1)(c) of the Act which is based on the quantum additions made by the AO. Since, in respect of the quantum additions, the matter has been restored to the Ld. CIT(A) as ordered above, the present penalty appeal is also accordingly, restored to the file of the Ld. CIT(A) for decision afresh.

6. In the result, both the appeals of the assessee are treated as allowed for statistical purposes.

Order is pronounced in the open court on 31.12.2024.

Sd/-

**[Rakesh Mishra]**  
लेखा सदस्य/Accountant Member

Sd/-

**[Sanjay Garg]**  
न्यायिक सदस्य/Judicial Member

Dated: 31.12.2024.

*JD Sr. P.S*

*Copy of the order forwarded to:*

1. **Appellant – Shri Vicky Prasad Shaw**
2. **Respondent – ITO, Ward-47(2), Kolkata .**
3. **CIT(A), NFAC, Delhi**
4. **Pr. CIT**
5. **CIT(DR),**

True Copy

By Order

Assistant Registrar, ITAT, Kolkata