

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA

**Shri Rajesh Kumar, Accountant Member
Shri Pradip Kumar Choubey, Judicial Member**

**I.T.A. No. 86/KOL/2025
Assessment Year: 2023-24**

Zing Restaurants (P) Ltd..... Appellant

C/o Subash Agarwal & Associates,
Advocates Siddha Gibson, 1,
Gibson Lane, Suite 213, 2nd Floor,
Kolkata - 7000069
[PAN: AAACZ5041M]

vs.

ADIT, CPC, Bengaluru..... Respondent

Jurisdictional Assessing Officer,
ITO Ward 8(2), Kolkata,
Aayakar Bhawan, P-7, Chowringhee Square,
Kolkata – 700069

Appearances by:

Assessee represented by : Siddarth Agarwal, Advocate
Department represented by : Sailen Samadder, Addl. CIT, Sr. DR

Date of concluding the hearing : 19.03.2025

Date of pronouncing the order : 03.04.2025

ORDER

Per Rajesh Kumar, Accountant Member:

This appeal filed by the assessee emanates from the orders of Ld. Commissioner of Income Tax (Appeals), Addl./JCIT(A)-11, Delhi [in short 'the Ld. CIT(A)'] dated 10.12.2024, passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year 2023-24.

2. The assessee has raised the following grounds of appeal:

"1. For that, on the facts and in the circumstances of the case, Ld. CIT(A) was not justified in passing an ex-parte order without giving reasonable opportunity of hearing.

2. For that on the facts and in the circumstances of the case, the Ld. CIT(A) grossly erred in confirming the addition made by the A.O. (CPC) on account of sale of property at Asansol, there being a difference in stamp valuation and deed value of Rs. 4,07,51,000/-.

3. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing."

3. At the outset, the Id. Counsel of the assessee submitted that the appellate proceedings before the Id. CIT(A) could not be represented by the assessee in spite of two opportunities granted by the CIT(A) i.e on 20.11.24 & 04.12.24 and the Id. CIT(A) decided the appeal ex parte. The Id. Counsel moved to the Bench certain documents in the form of original tax report and revised tax audit report which are available from page nos.42 to 80 of the paper-book and prayed that the appeal may be restored to the file of the Id. CIT(A) so that the same may be decided on merit afresh after taking into account the submissions, and the documents which may be filed in the appellate proceeding in support of the ground of appeal.

4. The Id. DR left the issue to the wisdom of the Bench although contended that the assessee did not make any compliance before the appellate proceedings.

5. After hearing the rival submissions and perusing the material of the record, we find that the Id. CIT(A) dismissed the appeal of the assessee in limine when the assessee failed to comply with the two notices issued on the various dates as stated above. The appellate order passed by the Id. CIT(A) is in the violation of section 250(6) of the Act which provides that the Id. CIT(A) has to state the point of determination and his decision thereon along the reason for taking such decision. Therefore, in the interest of justice and fair play, we are inclined to restore this appeal to the file of the Id. CIT(A) with the direction to decide the same afresh after affording reasonable opportunity of hearing to the assessee.

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

Order pronounced on 03.04.2025.

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Sd/-
[Rajesh Kumar]
Accountant Member

Dated: 03.04.2025
AK, PS

Copy of the order forwarded to:

1. Zing Restaurants (P) Ltd.
2. ADIT, CPC, Bengaluru
3. CIT (A)
4. CIT
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches