

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "सी", कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH: KOLKATA**

श्री प्रदीप कुमार चौबे, न्यायिक सदस्य एवं श्री संजय अवस्थी, लेखा सदस्य के समक्ष  
[Before Shri Pradip Kumar Choubey, Judicial Member & Shri Sanjay Awasthi, Accountant Member]

**I.T.A. Nos. 2260 & 2261/Kol/2024**  
**Assessment Years: 2017-18 & 2019-20**

Md. Enamul Haque  (PAN: AAZPH 9775 J)	Vs.	ACIT, Central Circle-4(4), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	28.04.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	06.05.2025
For the assessee / निर्धारिती की ओर से	Shri Anil Kochar, AR
For the revenue / राजस्व की ओर से	Shri Jitendra Kantilal Surti, JCIT Sr. DR

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

Both these appeals are preferred by the assessee against the separate orders of Commissioner of Income Tax (Appeal)-27, Kolkata (hereinafter referred to as the Ld. CIT(A)] dated 21.10.2024 for AY 2017-18 & 2019-20 respectively. Since issues are common in both the appeals hence taken up together for disposal. We shall take in ITA No. 2260/Kol/2024 as a lead case.

2. Brief facts of the case of the assessee are that a search and seizure operation u/s 132 of the Act was conducted against the assessee by the Investigation Wing, Murshidabad and Kolkata, consequent upon the search operation, the case of the Haque and JHM Group of cases' where authorization for search were executed were centralized with Central Circle-4(1), Kolkata later on. Subsequently, a notice u/s 153A of the act was issued to the assessee to calling for return of income for the year under consideration and in response to the same the assessee field his return of income. The case of the assessee was discussed and assessment order u/s 153A of the Act was passed by the AO determining the total income of Rs. 2,28,33,362/- as the AO made addition of Rs. 7,20,922/- in the form of disallowances of purchases and expenses.

3. Aggrieved by the said assessment order the assessee field an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed as there was no response submitted by the assessee nor any one appeared before the Ld. CIT(A).

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

4. The Ld. A.R challenges the very impugned order thereby submitting that the Ld. CIT(A) has passed an order ex-parte and confirmed the order of AO only on this ground that the assessee did not file any documents and submission in support of grounds of appeal. The Ld. A.R by filing a petition before us submitted that the assessee has been given an opportunity to place his case by remitting the appeal of the assessee to the file of Ld. CIT(A) for fresh hearing and adjudication of the issue involved. The Ld. Counsel also filed several papers before us.

5. Contrary to that the Ld. D.R did not raise any objection in restoring the appeal of the assessee before the Ld. CIT(A).

6. Upon hearing the submission of the counsel of the respective parties, we have perused the order passed by the Ld. CIT(A) and find that the Ld. CIT(A) has confirmed the order of AO when there was no response to the notices issued to the assessee nor the

assessee appeared before the Ld. CIT(A). The assessee has filed a petition before us. The relevant portion of the petition is as under:

*“Sir,*

*Most respectfully, I beg to state as under:*

*Hearing was fixed by the Ld. CIT(A) on 18.12.2023 and 07.10.2024. However, the accountant of the appellant could not contact me about the dates of hearing and accordingly there was no appearance before the Ld. CIT(A) before him.*

*Under these circumstances. it is my prayer that the matter may be restored back to the Ld. CIT(A) for fresh hearing and adjudication of the issue involved.*

*The hearing will be attended by me as and when required by the Ld. CIT(A).”*

Keeping in view, the submission as well as going over the petition filed by the assessee and for the interest of justice, we are inclined to restore the appeal of the assessee before the Ld. CIT(A) for fresh adjudication.

7. Since in ITA No. 2261/Kol/2024 for AY 2019-20, issues are common as the order passed by the Ld. CIT(A) is also an ex-parte order and for the same the assessee has filed petition as stated above.

Accordingly, Both the appeal of the assessee are hereby allowed for statistical purposes. Both the appeals of the assessee are hereby remitted back to the file of the Ld. CIT(A) for fresh adjudication. The Ld. CIT(A) is directed to hear the assessee and pass a afresh and reasoned order. The order passed by the Ld. CIT(A) is hereby set aside.

In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order is pronounced in the open court on 6<sup>th</sup> May, 2025

Sd/-

Sd/-

(Sanjay Awasthi / संजय अवस्थी)

(Pradip Kumar Choubey / प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 6<sup>th</sup> May, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Md. Enamul Haque, Tower-1, 3<sup>rd</sup> Floor, 72A, Tiljala Road, Park Circus, Kolkata- 700046
2. Respondent – ACIT, Central Circle-4(4), Kolkata
3. Ld. CIT(A)-Kolkata-27
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata