

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'SMC' BENCH, KOLKATA**

**Before**

**SHRI SONJOY SARMA, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 1293/KOL/2025  
Assessment Year: 2012-13**

Justin Tradelink Private Limited <b>(Appellant)</b>	Vs.	ITO, Ward-9(1), Kolkata <b>(Respondent)</b>
<b>PAN: AACJ5096N</b>		

**Appearances:**

**Assessee represented by** : Ankit Jalan, Adv.

**Department represented by** : Pampa Ray, Sr. DR, JCIT.

Date of concluding the hearing : 18-August-2025

Date of pronouncing the order : 27-October-2025

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2012-13 dated 14.05.2024, which has been passed against the assessment order u/s 144/147 of the Act, dated 28.12.2018.

1.1. The Registry has informed that the appeal is barred by limitation by 317 days. The assessee submitted that he was of the *bona fide* belief that proper compliance had been done by the Counsel for the assessee, Sri Sourav Kedia who is the company Secretary but later it was found that due to non-compliance to the hearing notices issued by the Ld. CIT(A), an *ex parte* order had been passed. Later, the assessee



approached Sri Avijit Dey, Advocate for filing an appeal before the ITAT and due to this there is delay in filing the appeal. After perusing the same, we find force in the reasons mentioned therein and are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

2. The assessee is in appeal before the Bench raising the following grounds of appeal:

*“1. For that the Ld. AO has erred and mistaken in law as well as and circumstances of the case while completing the impugned assessment order u/s 144/147 of the Income Tax Act, 1961.*

*2. For that the action of the Ld. AO is bad, erroneous, excessive, unjustified and unlawful in making the addition on account of undisclosed income amounting to Rs.45,00,000/-.*

*3. For that the action of the Ld. AO acting as a Judicial Authority, assessing the total income of the appellant company to Rs.45,05,039/- is liable to be quashed, since it has been passed in haste without application of mind and without allowing reasonable opportunity of hearing which is in contravention of principle of natural justice.*

*4. That the Ld. AO failed to provide the copy of reason recorded and serve the notices issued in relation to reassessment proceedings, depriving the appellant of the opportunity to present its matter which is in contravention of principle of natural justice. Thus, the issue of notice u/s 148 and reopening of case u/s 147 of the Income Tax Act, 1961 is invalid and bad in law.*

*5. That, the said impugned notice dated 20th March, 2019 was issued under section 148 solely relying on the information received from the investigation wing and on the basis of suspicion which clearly indicates that the notice has been issued mechanically without independent application of mind by the Assessing Officer.*

*6. That the approval of the Ld. Pr. CIT-3, Kolkata u/s 151 of the Income Tax Act, 1961 is not as per law. The approval/sanction u/s 151 is mechanical and in stereo typed manner. In regards to this, reliance can be placed on the settled case of Sh. Rajendra Agarwal v/s ITO, New Delhi on 2.12.2019 placed before ITAT, Delhi.*



7. For that the action of Ld. AO to reopen the case u/s 147 for the sole purpose of verification/ investigation is bad in law. Therefore, issue of notice u/s 148 is without jurisdiction.

8. That the AO has recorded reasons without following the "Standard Procedure for recording satisfaction u/s 147 of the Income Tax Act 1961" being directions issued by CBDT on 10.01.2018 directing the Assessing Officers to follow the procedures while recording the reason/ satisfaction.

9. For that the action of the Ld. AO to reopen the case u/s 147 of the Income Tax Act, 1961 is invalid and void ab initio due to the absence of link between the basis for forming reason to believe and fresh tangible material.

10. That the addition of Rs. 45,00,000/- arbitrarily made by ITO Ward-9(3), Kolkata as undisclosed income in the total income of the appellant company is based on surmises, conjectures and gossips without any basis or material and/ or evidence.

11. For that your appellant company reserve the right to further lay before your honour the additional ground(s) as necessary and or shall require at the time of hearing of this appeal and claims further relief (s) which is necessary for the end of the justice."

3. Brief facts of the case are that the assessee is a company and had filed the return of income showing total income of ₹ 5,039/-. The assessment was reopened by issuing notice under section 148 of the Act. Subsequently an order under section 144/147 of the Act was passed assessing the total income at ₹ 45,05,039/- by making an addition of ₹ 45,00,000/- on account of undisclosed income. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who issued notices for hearing on 28/01/2021, 12/05/2023, 30/06/2023 and 01/05/2024 for furnishing submissions and evidences in support of grounds of appeal but despite the notices being issued via email ID provided in the ITBA Portal, the assessee did not respond to any of the said notices. Since the notices were not complied with despite being provided with sufficient opportunities, the Ld. CIT(A) dismissed the appeal on account of non-prosecution and upheld the



order of the Ld. AO. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

4. Rival submissions were heard and the record and the submissions made have been examined. At the outset, the Ld. AR brought it to the notice of the Bench that both before the Ld. AO as well as before the Ld. CIT(A), proper representation was not made and both the orders were *ex parte*. The notices were served through email but the same could not be accessed on account of lack of communication. It was requested that the matter may be remanded to the lower authorities the assessee has sufficient evidence for the relief claimed. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

5. Before us in the course of the appeal, the assessee has filed an affidavit stating that no compliance could be made during the course of reassessment proceedings since no physical notice of hearing was received by the assessee. All the notices were issued to email ID m.jain15575@gmail.com of one of the directors which was inactive although the active email ID coldcoffee2016@gmail.com was incorporated in the returns of income filed during the period when the reassessment proceeding had been initiated. On receipt of a certified copy of the said reassessment order, the appeal was filed before the Ld. CIT(A) on 28/02/2020. The Company Secretary, Shri Sourav Kedia, was entrusted with the job of making compliance to the notices issued by the Ld. CIT(A) and the assessee was under the bona fide belief that proper compliance had been done by him to the notices issued by the Ld. CIT(A). Later on, around June 2025, when the assessee enquired the status thereupon it transpired that an *ex parte* order had already been passed in the year 2024 due to non-compliance to the notices



issued for hearing. In the affidavit filed, the assessee has given an undertaking at para-10 that proper compliance shall be made in case the case is sent back to the file of the lower authorities. When asked as to why reasonable cost should not be imposed for defaults in complying with the notices issued, the Ld. AR requested that a reasonable cost may be imposed.

6. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). We find that the appeal had been decided *ex parte*, primarily on account of non-prosecution of the appeal on behalf of the assessee. Therefore, we deem it appropriate in the interest of justice and fair play that another opportunity needs to be provided to the assessee to represent his case properly before the Ld. CIT(A). The Ld. AR also requested before us for one more opportunity to produce the documents before the Ld. CIT(A) and to file all the details as required. In such circumstances, in the interest of justice, we restore the issues to the file of Ld. CIT(A) for re-adjudicating the issues afresh after granting the assessee adequate opportunity of being heard, subject to payment of cost of ₹10,000/- (Rupees Ten Thousand only) by the assessee to the Legal Aid Services, 3rd Floor of the Centenary Building, High Court, Calcutta-700001, within sixty days from the date of this order and to produce the receipt of the payment before the Ld. CIT(A) at the first hearing; and on failure of the assessee to do so, the order of the Ld. CIT(A) shall stand confirmed. The assessee is also directed to cooperate with the Ld. CIT(A) in the readjudication proceedings, positively. We, therefore, set aside the order of the Ld. CIT(A) and remit the appeal to him to be decided afresh, who shall allow an opportunity of being heard to the assessee and also grant an opportunity of representing the case and be heard to



the Ld. AO as per rule 46A of the Income Tax Rules, 1962, if required, and thereby pass an order in accordance with law. For statistical purposes, the appeal of the assessee is allowed.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in the open Court on 27<sup>th</sup> October, 2025.**

*Sd/-*

**[Sonjoy Sarma]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 27.10.2025

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

- 1. Justin Tradelink Private Limited, 29D, Bentinck Street, Unit-A, B & C, 3<sup>rd</sup> Floor, Kolkata, West Bengal, 700001.**
- 2. ITO, Ward-9(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata