

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

Before Shri Sanjay Garg, Judicial Member and Shri Sanjay Awasthi, Accountant Member

I.T.A. No.1285/Kol/2023
Assessment Year: 2014-15

M/s Littlestar Projects Pvt. Ltd.....Appellant
Shop No.C-12, F/F, Seth Deokaran
Dass Commercial Complex, Kachery
Road, Unit No.36, Uditnagar,
Rourkela Town, Sundergarh,
Odisha- 769012.
[PAN: AABCL7062K]

vs.

ITO, Ward-10(3), Kolkata..... Respondent

Appearances by:

Shri Abhishek Bansal, AR, appeared on behalf of the appellant.

Shri P. P. Barman, Addl. CIT-Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : May 06, 2024

Date of pronouncing the order : June 24, 2024

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 19.10.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. At the outset, the ld. counsel for the assessee invited our attention to the impugned order of the CIT(A) to submit that the same is an ex parte order passed by the CIT(A). The ld. counsel has also invited our attention to the assessment order to submit that the same is also an ex parte order passed by the Assessing Officer u/s 144 of the Act. The ld. counsel has further invited our attention to the opening lines of the assessment order, wherein, it has been mentioned that the notices of

hearing were issued to the assessee through registered post as well as through email. That the letter sent to the assessee through registered post got returned with postal comment 'not known'. However, there was no response to notice sent through email. The ld. counsel invited our attention to the address mentioned in the assessment order, which is as 'Littlestar Projects Private Ltd, Chandi Ghosh Road, Tollygunj, Kolkata-700007'. The ld. counsel in this respect has submitted that firstly the address mentioned in the assessment order was incomplete address. Further that the address mentioned in the assessment order otherwise was a wrong address. That because of the aforesaid facts, the notices sent through registered post were not served upon the assessee. The ld. counsel has further submitted that even the alleged email sent to the assessee has never come to the notice of the assessee. The ld. counsel has further invited our attention to Form 35 filed before the CIT(A), wherein, the address of the assessee has been mentioned as Littlestar Projects Private Limited, Ground Floor, Room No.106, 157, Rabindra Sarani, Burrabazar, Kolkata and the email of the assessee has been mentioned as cs.sjain.assoc@gmail.com. It is to be noted that the email address mentioned in the return of income is different to that has been mentioned in appeal Form 35 before the CIT(A). The ld. counsel has further invited our attention to the impugned order of the CIT(A), wherein, the address of the assessee is same as that has been mentioned in the assessment order. The ld. CIT(A) failed to take notice of the address and email-id mentioned in the appeal opening form i.e. Form No.35.

3. A perusal of the Form No.36 filed before this Tribunal shows that the appellant/assessee has further changed its address, which is mentioned as Shop No.C-12, F/F, Seth Deokaran Dass Commercial Complex, Kachery Road, Unit No.36, Uditnagar, Rourkela Town,

Sundergarh, Odisha- 769012 and email-id as littlestarproject2010@gmail.com. It seems in this case that the notices could not be served upon the assessee during the appellate proceedings because of the change of address of the assessee. However, it is also pertinent to note here that the assessee has further changed its address and the assessee is required to duly brought to the knowledge of the Assessing Officer/CIT(A) regarding the change in address. However, considering the fact that the assessee could not present its case before the CIT(A) for want of service of notice and further considering the principles of natural justice that nobody should be condemned unheard, we set aside the order of the CIT(A) with a direction to decide the appeal of the assessee afresh on merits. The ld. CIT(A) will give proper opportunity to the assessee to present its case before him including the explanations and evidences relating to the issue under consideration. The ld. CIT(A) may call upon a remand report from the Assessing Officer in respect of evidences/explanations furnished by the assessee and thereafter, to pass a speaking order in accordance with law. It is also directed that the assessee will furnish its correct address before the competent authority i.e. Assessing Officer as well as CIT(A) along with email-id, phone no. etc. upon which the notice will be duly served by the Ld. CIT(A) or the Assessing Officer, as the case may be. The assessee will make an application for change of address in the PAN Database as per rules. The assessee will comply with the aforesaid directions of providing correct address, email-id, phone no. etc. to the CIT(A) as well as to the Assessing Officer within 60 days of the receipt of the copy of this order, thereafter, the ld. CIT(A) will fix the appeal for fresh hearing. If the assessee fails to furnish correct address as directed above, the ld. CIT(A) will proceed to decide the appeal by serving notice at the address, email-id as mentioned in Form 36 filed before us as

reproduced above and in that event, the assessee will be estopped from saying that the notices have not been served at the correct address.

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

Kolkata, the 24th June, 2024.

Sd/-

[Sanjay Awasthi]

लेखा सदस्य/Accountant Member

Sd/-

[Sanjay Garg]

न्यायिक सदस्य/Judicial Member

Dated: 24.06.2024.

RS

Copy of the order forwarded to:

1. M/s Littlestar Projects Pvt. Ltd
2. ITO, Ward-10(3), Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches