

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'C(SMC)' BENCH, KOLKATA  
[Virtual Court Hearing]**

**Before Shri P.M. Jagtap, Vice-President**

**I.T.A. No. 12/KOL/2020  
Assessment Year: 2013-2014**

***A.J. Mill Store Agency Pvt. Limited,.....Appellant  
C/o. Ankit & Associates, Chartered Accountants,  
Diamond Heritage, Room No. 1207A,  
16, Strand Road, Kolkata-700001  
[PAN: AABCA9021B]***

**-Vs.-**

***Income Tax Officer,.....Respondent  
Ward-2(2), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee Square, 7<sup>th</sup> Floor,  
Kolkata-700069***

**Appearances by:**

*N o n e, for the Appellant*

*Shri Jayanta Khanra, JCIT, Sr. D.R., for the Respondent*

Date of concluding the hearing : July 27, 2020

Date of pronouncing the order : July 27, 2020

**O R D E R**

This appeal filed by the assessee is directed against the order of ld. Commissioner of Income Tax (Appeals)-10, Kolkata dated 06.11.2019 passed ex-parte, whereby he dismissed the appeal of the assessee.

2. The assessee in the present case is a Company, which is engaged in the business of trading in welding electrodes and accessories. On the basis of information received by him, a notice under section 148 was issued by the Assessing Officer to the assessee on 17.06.2016 for the year under consideration. In response to the said notice, the return of income for the year under consideration was filed by the assessee on 13.07.2016 declaring total income of Rs.3,65,370/-. In the assessment completed under section 143(3)/147 of the Act vide an order dated 09.12.2016, the

total income of the assessee was determined by the Assessing Officer at Rs.30,41,124/- after making the following three additions:-

(i)	Addition under section 68 by treating the loan received by the assessee during the year under consideration as unexplained cash credit	Rs.25,00,000/-
(ii)	Unaccounted contract receipts	Rs. 1,73,488/-
(iii)	Undisclosed income from commission/brokerage	Rs. 2,266/-

3. Against the order passed by the Assessing Officer under section 143(3)/147 of the Act, an appeal was preferred by the assessee before the Id. CIT(Appeals) challenging the validity of the said assessment as well as disputing the additions of Rs.25,00,000/- and Rs.1,73,488/- made by the Assessing Officer to its total income. As mentioned by the Id. CIT(Appeals) in his impugned order, the said appeal was fixed for hearing from time to time and since there was no satisfactory compliance on the part of the assessee to the notices issued by him, the Id. CIT(Appeals) dismissed the appeal of the assessee vide his appellate order dated 06.11.2019 passed ex-parte. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. Although the assessee has moved an application seeking adjournment of the hearing fixed today, it is observed that the assessee has raised a preliminary issue in Ground No. 2 challenging the impugned order passed by the Id. CIT(Appeals) ex-parte on the ground that proper and sufficient opportunity of being heard was not provided by the Id. CIT(Appeals) before dismissing its appeal. In this regard, the Id. D.R. has invited my attention to para no. 3 of the impugned order of the Id. CIT(Appeals) to point out that the notices issued by the Id. CIT(Appeals) fixing the appeal of the assessee for hearing on 20.02.2019, 05.03.2019 and 05.04.2019 were not served on the assessee and the same had been returned back by the Postal Authorities with the comment "insufficient

address". He has submitted that the appeal of the assessee thereafter was fixed for hearing by the ld. CIT(Appeals) on 20.03.2019 and the notice of the said hearing was stated to be served upon the Authorized Representative of the assessee-company on 16.03.2019. He has submitted that since there was no compliance on the part of the assessee to the said notice, the ld. CIT(Appeals) proceeded to dismiss the appeal of the assessee vide his impugned order passed ex-parte without giving any further opportunity of being heard to the assessee. Keeping in view this factual position pointed out by the ld. D.R. from the impugned order of the ld. CIT(Appeals), I am of the view that proper and sufficient opportunity of being heard cannot be said to have been given by the ld. CIT(Appeals) to the assessee before dismissing the appeal of the assessee vide his impugned order passed ex-parte and there is a clear violation of principle of natural justice. Moreover, it is observed that the issue challenging the validity of the assessment made by the Assessing Officer under section 143(3)/147 was raised by the assessee by raising Grounds No. 1 to 5 in its appeal and the same was decided by the ld. CIT(Appeals) vide para no. 4 of his impugned order as under:-

*"04. In Ground No. 1 to 5, the appellant-company challenges the reopening of the case and contends that from the facts and in the circumstances of the case the order passed by the Ld. A.O. u/s 143(3)/147 of the Income Tax Act 1961 is bad in law as well as facts by not providing a reasonable opportunity of being heard. This is merely a general statement and in my considered view in these grounds the appellant has not demonstrated any deficiency of the notices leading to reopening of the case. The grounds are therefore dismissed".*

5. Similarly the issues raised by the assessee in Grounds No. 6 & 7 of its appeal challenging the additions of Rs.25,00,000/- made under section 68 and Rs.1,73,488/- on account of the alleged unaccounted contract receipts respectively were decided by the ld. CIT(Appeals) vide paragraph no. 7 of his impugned order as under:-

*“07. FINDINGS & DECISION: I find that the Ld. AO has passed an elaborate order with reasoning and the appellant has not countered the reasoning either in assessment or during the appeal stage. As such I have no reason to interfere in the findings of the Ld. A.O which stand confirmed. These grounds are therefore dismissed”.*

6. It is pertinent to note that the Ld. CIT(A), as per the provisions of sub-section (6) of section 250 was required to dispose of the appeal of the assessee vide an order in writing stating the points for determination, the decision thereon and the reasons for the decision. It is observed that the impugned order passed by the Ld. CIT(A) does not comply with these requirements. I, therefore, consider it fair and proper and in the interest of justice to set aside the impugned order passed by the ld. CIT(Appeals) ex-parte and remit the matter back to him for disposing of the appeal of the assessee afresh on merit in accordance with law after giving proper and sufficient opportunity of being heard to the assessee. The assessee is directed to make due compliance before the ld. CIT(A) and extend all the possible cooperation in order to enable the ld. CIT(A) to dispose of the appeal afresh expeditiously.

**7. In the result, the appeal of the assessee is treated as allowed for statistical purposes.**

Order pronounced in the open Court on July 27, 2020.

**Sd/-  
(P.M. Jagtap)  
Vice-President)**

**Kolkata, the 27<sup>th</sup> day of July, 2020**

**Copies to : (1) A.J. Mill Store Agency Pvt. Limited,  
C/o. Ankit & Associates, Chartered Accountants,  
Diamond Heritage, Room No. 1207A,  
16, Strand Road, Kolkata-700001**

**(2) Income Tax Officer,  
Ward-2(2), Kolkata,  
Aayakar Bhawan, 7<sup>th</sup> Floor,  
P-7, Chowringhee Square, Kolkata-700069**

(3) Commissioner of Income Tax (Appeals)-10, Kolkata;

(4) Commissioner of Income Tax- , Kolkata

(5) The Departmental Representative

(6) Guard File

By order

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata

**Laha/Sr. P.S.**