

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

Before Shri P.M. Jagtap, Accountant Member

**I.T.A. No. 486 /KOL/ 2016
Assessment Year: 2005-2006**

Smt. Chitrlekha Paul,.....Appellant
50/1A, P.G.H.S. Road,
Kolkata-700 032
[PAN : AGQPP 1457 Q]

-Vs.-

Income Tax Officer,.....Respondent
Ward-12(2), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069

Appearances by:

Shri Pranabesh Sarkar, Advocate, for the assessee
Shri Sanjit Das, JCIT, for the Department

Date of concluding the hearing : April 22, 2016

Date of pronouncing the order : April 27, 2016

O R D E R

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-9, Kolkata dated 03.02.2016 passed ex-parte, whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is an individual, who filed her return of income for the year under consideration on 13.12.2005 declaring total income of Rs.90,000/-. In the assessment completed under section 143(3) read with section 147, the total income of the assessee was determined by the Assessing Officer at Rs.8,88,000/- after making additions of Rs.3,48,000/-, Rs.3,00,000/- and Rs.1,50,000/- on account of the undisclosed income against cash deposit, undisclosed investment and unexplained expenses respectively. Against the order passed by the Assessing Officer under section 143(3) read with section 147, an appeal

was preferred by the assessee before the Id. CIT(Appeals) and a detailed written submission was filed by the assessee before the Id. CIT(Appeals) in support of her case on all the three issues involved in the appeal. A copy of the said written submission was forwarded by the Id. CIT(Appeals) to the Assessing Officer for his examination and comments. In the remand report submitted to the Id. CIT(Appeals) on 04.01.2016, the Assessing Officer reiterated his findings given in the assessment order. Thereafter the appeal of the assessee was fixed for hearing by the Id. CIT(Appeals) on 03.02.2016 and since no one attended on behalf of the assessee on the said date, he dismissed the appeal of the assessee for non-prosecution. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

3. I have heard the arguments of both the sides and also perused the relevant material available on record. As rightly submitted by the Id. counsel for the assessee, only one opportunity was given by the Id. CIT(Appeals) to the assessee of being heard after the receipt of remand report from the Assessing Officer and this position clearly evident from the impugned order of the Id. CIT(Appeals) has not been disputed even by the Id. D.R. It is thus clear that the appeal filed by the assessee before him has been dismissed by the Id. CIT(Appeals) without giving proper and sufficient opportunity of being heard to the assessee and there is a clear violation of principle of natural justice. I, therefore, set aside the impugned order of the Id. CIT(Appeals) and remit the matter back to him for deciding the appeal of the assessee afresh on merit after giving proper and sufficient opportunity of being heard to the assessee.

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

Order pronounced in the open Court on April 27, 2016.

Sd/-
(P.M. Jagtap)
Accountant Member

Kolkata, the 27th day of April, 2016

Copies to : (1) **Smt. Chitrlekha Paul,**
50/1A, P.G.H.S. Road,
Kolkata-700 032

(2) **Income Tax Officer,**
Ward-12(2), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069

(3) *Commissioner of Income Tax(Appeals)-9, 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.