

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

**Before Shri P.M. Jagtap, Accountant Member**

**I.T.A. No. 104 /KOL/ 2015  
Assessment Year: 2008-2009**

**Sheikh Abdus Sabur,.....Appellant**  
**(Prop. of Kalyani Seed Farm),**  
**Vill. & P.O. Rasulpur,**  
**Bankura-722 205**  
**[PAN : AJZPS 8850 Q]**

**-Vs.-**

**Assistant Commissioner of Income Tax,.....Respondent**  
**Circle-Bankura,**  
**Bilash Bhawan,**  
**Chandmaridanga,**  
**Bankura**

**Appearances by:**

*Shri Brijesh Kr. Singh, Advocate, for the assessee*  
*Shri M.K. Biswas, JCIT, D.R., for the Department*

Date of concluding the hearing : July 12, 2016

Date of pronouncing the order : July 14, 2016

**O R D E R**

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals), Durgapur dated 13.10.2014 for the assessment year 2008-09.

2. The assessee in the present case is an individual, who is engaged in the business of processing and trading in seeds under the name and style of his proprietary concern M/s. Kalyani Seed Farm". A survey under section 133A was carried out at the business premises of the assessee, which revealed that the assessee was maintaining two sets of books of account. The Balance-sheet and Profit & Loss Account found during the course of survey reflected certain figures of sundry debtors, sundry

creditors and capital introduction, which were different from the Balance-sheet and Profit & Loss Account filed by the assessee along with the return of income. Although it was submitted by the assessee that the said Balance-sheet and Profit & Loss Account were prepared and got audited only for the purpose of obtaining loan from Bank, the Assessing Officer did not accept the same. He held that the assessee had certainly earned more income than what was disclosed for the purpose of income-tax and estimating such undisclosed income at Rs.20,00,000/-, he made addition to the total income of the assessee to that extent in the assessment completed under section 143(3)/147 vide an order dated 31.12.2010.

3. Against the order passed by the Assessing Officer under section 143(3)/147, an appeal was filed by the assessee before the Id. CIT(Appeals) and since there was no satisfactory compliance on the part of the assessee to the notices issued by him fixing the appeal for hearing from time to time, the Id. CIT(Appeals) proceeded to dispose of the appeal of the assessee ex parte on merit and confirmed the addition of Rs.20,00,000/- made by the Assessing Officer to the total income of the assessee. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. I have heard the arguments of both the sides and also perused the relevant material available on record. The limited relief sought by the Id. counsel for the assessee is that the matter may be sent back to the Id. CIT(Appeals) in order to give one more opportunity to the assessee to put forth his case as the notice of the last hearing fixed before the Id. CIT(Appeals) was not received by the assessee, which resulted in his non-compliance. Although the Id. counsel for the assessee has filed an affidavit of the assessee to support his contention, it is observed that there was a similar non-compliance on the part of the assessee even to the earlier notices of hearing issued by the Id. CIT(Appeals). In these circumstances, I am of the view that one more opportunity can be given

to the assessee as sought by the ld. counsel for the assessee in the interest of justice subject to payment of cost. Accordingly, I direct the assessee to pay a sum of Rs.5,000/- to the Prime Minister's Relief Fund and produce the proof of such payment before the ld. CIT(Appeals) subject to the said payment, the impugned order of the ld. CIT(Appeals) is set aside and the matter is remitted back to him for deciding the same afresh after giving one more opportunity of being heard to the assessee.

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

Order pronounced in the open Court on July 14, 2016.

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

***Kolkata, the 14<sup>th</sup> day of July, 2016***

*Copies to :* (1) ***Sheikh Abdus Sabur,  
(Prop. of Kalyani Seed Farm),  
Vill. & P.O. Rasulpur,  
Bankura-722 205***

(2) ***Assistant Commissioner of Income Tax,  
Circle-Bankura,  
Bilash Bhawan,  
Chandmaridanga,  
Bankura***

(3) ***Commissioner of Income Tax (Appeals), Durgapur***

(4) ***Commissioner of Income Tax- ,***

(5) ***The Departmental Representative***

(6) ***Guard File***

*By order*

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

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