

आयकर अपीलीय अधीकरण, न्यायपीठ – “D” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “D” KOLKATA*

Before **Shri Waseem Ahmed, Accountant Member** and
Shri S.S.Viswanethra Ravi, Judicial Member

ITA No.953/Kol/2016
Assessment Year:2006-07

Lt Maram Lakshmi Narayana, L/R M. Madhumurty, 2, Haren Mukherjee Road, Belur, Howrah-711 202 [PAN No.ABWP 9878 L]	बनाम/ V/s.	ITO, Ward-48(2), 10, Middleton Row, Kolkata-700 015
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri Saurabh Kumar, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	24-10-2017
घोषणा की तारीख/Date of Pronouncement	26-10-2017

आदेश /ORDER

PER Waseem Ahmed, Accountant Member:-

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-14, Kolkata dated 11.02.2016. Assessment was framed by ITO Ward-48(2), Kolkata u/s 143(3)/263 of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) vide his order dated 29.12.2011 for assessment year 2006-07. The grounds raised by the assessee per its appeal are as under:-

2. At the time of hearing, we find that nobody appeared on behalf of assessee nor filed any application for adjournment. So we decided to hear the present appeal where we find that the hearing is possible without appearance of assessee or by Ld AR. We proceed to hear this in presence of Ld. DR.

3. At the outset, it was observed from the order of Ld. CIT(A) that the case was fixed for hearing on several occasions but assessee failed to attend the same. Therefore, the appeal was decided by Ld. CIT(A) as *ex parte* on 29.02.2016. Against the impugned *ex parte* order of Ld. CIT(A) assessee filed an appeal before us.

4. On perusal of appellate order, we find that Ld. CIT(A) affirmed the action of Assessing Officer *ex parte* without mentioning any reason for confirming the same on merits. The provisions of Section 250(6) of the Act require the Commissioner (Appeal) to dispose of the appeal in writing with reasoning. But we find from the impugned order of Ld. CIT(A) who confirmed the order of AO without deciding the same on merit. We also observe in the interest of justice and fair play that Ld. CIT(A) should have given another opportunity to the assessee to appear before him to explain his points of contentions. Therefore, in this view of the matter, we are inclined to remit the matter back to the file of Ld. CIT(A) with the direction to decide the issue raised by assessee on merit after giving reasonable opportunity of being heard to assessee. It is needless to say that the assessee should co-operate in the appellate proceeding and should appear before the Ld. CIT(A) on the dates of hearing. Hence, this ground of assessee's appeal stands allowed for statistical purpose.

5. **In the result, assessee's appeal stands allowed for statistical purpose.**

Order pronounced in open court on 26/10/2017

Sd/-

(न्यायिक सदस्य)

(S.S.Viswanethra Ravi)

Judicial Member

*Dkp-Sr.PS

दिनांक:- 26/10/2017

कोलकाता / Kolkata

आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-Lt.Maram Lakshmi Narayana,L/r M.Madhumurty, 2, Haren Mukherjee Road, Belur, Howrah-711 202
2. प्रत्यर्थी/Respondent-ITO Ward-48(2), 10, Middleton Row, Kolkata-15
3. संबंधित आयकर आयुक्त / Concerned CIT 4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata 6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary,
Head of Office/DDO
आयकर अपीलीय अधिकरण, कोलकाता