

आयकर अपीलिय 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.785/Kol/2016**  
Assessment Year:2010-11

Shri Ashok Das Nabagram, Panchpota, Garia,Kolkata-152 [PAN No.AEXPD 0724 M]	<u>बनाम</u> / V/s.	ACIT, Circle-25, Aayakarr Bhawn, Dakhin, 2, Gariahat, Road (South), Kolkta-68
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri Arindam Bhattacharjee, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	02-11-2017
घोषणा की तारीख/Date of Pronouncement	17-11-2017

**आदेश /O R D E R**

**PER Waseem Ahmed, Accountant Member:-**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-7, Kolkata dated 16.02.2016. Assessment was framed by ACIT, Circle-53, Kolkata u/s 143(3) of the Income Tax Act, 1961 vide his order dated 19.03.2013 for assessment year 2010-11.

2. At the time of hearing, we find that neither anybody appeared on behalf of assessee nor any application for adjournment was filed. However, we noticed that the Id. CIT(A) has passed the *ex-parte* order. Therefore, we decided to dispose of the appeal after considering the material available on records and in the absence of assessee/ his authorized representative.

3. At the outset, it was observed that the case was fixed for hearing on several dated but none appeared on behalf of assessee. Therefore, the appeal was decided by Ld. CIT(A) as *ex parte* on 16.02.2016. Against the impugned *ex parte* order of Ld.

CIT(A) assessee filed an appeal before us and submitted in grounds of appeal that the adjournment petition was duly filed before the Ld. CIT(A) but the same was not considered. As such, it was pleaded before us in the grounds of appeal that the impugned order has been passed without giving opportunity to the assessee.

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 note that in the interest of justice and fair play 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 attend the hearing as and when required by Ld. CIT(A). 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 17/11/2017

Sd/-

(न्यायिक सदस्य)

(S.S.Viswanethra Ravi)

Judicial Member

\*Dkp, Sr.P.S

Sd/-

(लेखा सदस्य)

(Waseem Ahmed)

Accountant Member

दिनांक:- /11/2017 कोलकाता / Kolkata

**आदेश की प्रतिलिपि अद्येषित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-Shri Ashok Das, Nabagram, Panchpota, Garia, Kolkata-152
2. प्रत्यर्थी/Respondent-ACIT, Circle-25, Aayakar Bhawan, Dakshin, 2 Gariahat, Road (Sough) Kolkata-68
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.

By order/आद

/True Copy/

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