

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

[Before Shri P.M. Jagtap, AM]

I.T.A. No. 2262/Kol/2017
Assessment Year : 2010-11

Anil Kumar Narula.....Appellant
3, Amratala Street, 1st Floor,
Kolkata - 700 001
[PAN : ABOPN 6287 F]

D.C.I.T. CIR - 4, Kolkata.....Respondent
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata - 700 069

Appearances by:

Shri M.P. Agarwal, AR appearing on behalf of the Assessee.

Shri Sanjay Mukherjee, Addl. CIT appearing on behalf of the Revenue.

Date of concluding the hearing : January 29, 2018

Date of pronouncing the order : January 31, 2018

ORDER

This appeal filed by the assessee is directed against the order of Ld. CIT(Appeals) - 2, Kolkata dated 24.08.2017 whereby he dismissed the appeal of the assessee ex-parte.

2. The assessee in the present case is an individual who derives income from business, salary, rent and other sources. The return of income for the year under consideration was filed by him on 23.02.2011 declaring a total income of Rs. 5,87,650/-. In the assessment completed under section 143(3) vide an order dated 11.03.2013, the total income of the assessee was determined by the assessee at Rs. 10,52,983/- after making additions of Rs. 24,303/- and Rs. 4,41,030/- on account of disallowance of corporation tax and other expenses respectively.

3. Against the order passed by the A.O. under section 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) and since there was no satisfactory compliance on the part of the assessee to the notices issued by him fixing the said appeal for hearing from time to time, the Ld. CIT(A) dismissed the appeal of the assessee vide his appellate order dated 24.08.2017 passed ex-parte. Aggrieved by the same, 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. It is observed that the appeal filed by the assessee before him was dismissed by the Ld. CIT(A) vide his impugned order passed ex-parte after taking note of the non-compliance on the part of the assessee to the notices issued by him as under:

<i>Date of Notice</i>	<i>Date of Hearing</i>	<i>Remarks</i>
08.03.2017	12.04.2017	<i>The wife of the appellant filed a letter dated 10.04.2017 for adjournment of the hearing of the appeal and case was adjourned for sine die.</i>
12.07.2017	04.08.2017	<i>The notice was returned by the Postal Authority with the remark "Addressee out of Station".</i>
09.08.2017	23.08.2017	<i>This notice was sent through notice server and as per his remarks the appellate not found.</i>

As is evident from the above details given by the Ld. CIT(A) in his impugned order, adjournment was sought on behalf of the assessee on the first date of hearing fixed on 12.04.2017 while the notices of next two hearings fixed on 04.08.2017 and 23.08.2017 were not served on the assessee. I, therefore, find merit in the contention raised by the learned counsel for the assessee that proper and sufficient opportunity was not effectively granted by the Ld. CIT(A) to the assessee before dismissing his appeal ex-parte vide his

impugned order. Even the learned DR has not been able to dispute this position. I, therefore, set aside the impugned order passed by the Ld. CIT(A) ex-parte and remit the matter back to him with the direction to dispose of the appeal of the assessee afresh on merit after giving the assessee proper and sufficient opportunity of being heard.

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

Order Pronounced in the Open Court on 31st January, 2018.

Sd/-
(P.M. Jagtap)
ACCOUNTANT MEMBER

Dated: 31/01/2018

Biswajit, Sr. PS

Copy of order forwarded to:

1. Anil Kumar Narula, 3, Amratala Street, 1st Floor, Kolkata – 700 001.
2. DCIT, Aayakar Bhawan, P-7, Chowringhee Square, Kolkata – 700 069.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.
ITAT, Kolkata