

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH: KOLKATA**

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

**I.T.A No. 2186/Kol/2016**

A.Y: 2008-09

**M/s. Avenue Sales  
Pvt. Ltd**

PAN: AAGCA4543H

[Appellant]

**Vs.**

**I.T.O. Ward 1(3), Kolkata**

[Respondent]

For the Appellant : Adj. Petition filed, rejected  
Shri K. Dixit, Staff of the assessee appeared  
For the Respondent : Shri A.K. Tiwari, Addl.CIT, Id.Sr.DR

Date of hearing : 29-01-2018

Date of pronouncement : 02-02-2018

**ORDER**

**Shri S.S.Viswanethra Ravi, JM:**

This appeal by the Assessee is directed against the order of the Commissioner of Income Tax (Appeals)-1, Kolkata dt. 30-08-2016 for the A.Y 2008-09, wherein he confirmed the assessment order of the AO passed u/s. 143(3)/263 of the Act *ex-parte*.

2. The only issue to be decided as to whether the CIT-A *ex parte* is justified in confirming the assessment order of the AO passed u/s. 143(3)/263 of the Act in the facts and circumstances of the case.

3. At the time of hearing before us, one, Mr. K. Dixit, claiming to be as staff of the assessee filed an adjournment application dt. 29-01-2018 stating that Shri Mr. S.K. Tulsian, Advocate, on record, is attending before the Hon'ble Income Tax Settlement Commission, Addl. Bench Delhi on the appointed date and in view of his non availability and prayed to adjourn the case to any other date convenient to the Bench.

4. The Id. DR submits that the assessee did not appear before the CIT-A and also failed to give proper explanation in substantiating its claim and contention by proper evidence along with explanation. The AO was justified in making the impugned assessment u/s. 143(3)/263 of the Act, which was rightly confirmed by the CIT-A *ex parte*. After perusing the case record and hearing the Id.DR, we dismiss the adjournment petition and proceed to dispose of the appeal on the basis of material available on record.

5. On perusal of records, we find that neither the assessee nor any representative on behalf of the assessee appeared before the CIT-A to prosecute its case by rendering proper explanation. According to CIT-A, the assessee availed opportunities of being heard on three occasions, but he failed to submit any evidence or explanation to substantiate its claim as made in the grounds of appeal. We find that before the CIT-A there was no proper representation or explanation on behalf of the assessee in substantiating its claim by any evidence and explanation. Therefore, taking into consideration material evidence in this regard, facts and circumstances of the case and in the interest of natural justice, we deem it fit and proper to remand the matter to the file of the CIT-A to decide the issue in hand afresh by giving the assessee adequate opportunity of hearing. The assessee is also directed not to seek any adjournment. The assessee shall be at liberty to file requisite evidences and explanation in support of its contention and claim.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 02-02-2018

Sd/-  
**Waseem Ahmed**  
**Accountant Member**

Sd/-  
**S.S. Viswanethra Ravi**  
**Judicial Member**

Dated :02-02-2018

PP(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant/Assessee: M/s. Avenue Sales Pvt. Ltd  
1, Crooked Lane, 2<sup>nd</sup> Floor, Room No. 208, Kolkata-69.
2. Respondent :Income Tax Officer, Ward 1(3), Kolkata  
Aaykar Bhawan, P-7, Chowringhee Square, Kolkata-700069.
3. The CIT(A), Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy, By order,

Sr.PS/H.O.O  
ITAT Kolkata