

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'D' BENCH, KOLKATA****Before Shri P.M. Jagtap, Accountant Member and
Shri S.S.Viswanethra Ravi, Judicial Member****I.T.A. Nos. 2309 & 2310/KOL./2016
Assessment years: 2008-2009 & 2012-2013*****M/s. Satramdas Dhalamal,.....Appellant
Queens Mansion, 12J, Park Street,
Kolkata-700071
[PAN: AAKFS 3772 M]*****-Vs.-*****Deputy Commissioner of Income Tax,.....Respondent
Circle-33, Kolkata,
10B, Middleton Row, 3rd Floor,
Kolkata-700 071*****Appearances by:*****Shri Vijay Santhalia, Staff, for the assessee
Shri Arindam Bhattacharjee, Addl. CIT, D.R., for the Department***Date of concluding the hearing : February 12, 2018
Date of pronouncing the order : February 16, 2018**O R D E R****Per Shri P.M. Jagtap, Accountant Member :**

These two appeals filed by the assessee are directed against the common order of Id. Commissioner of Income Tax (Appeals)-9, Kolkata passed *ex-parte* dated 29.09.2016 dismissing the appeals of the assessee for A.Ys. 2008-09 and 2012-13 for non-prosecution.

2. The assessee in the present case is a partnership firm, which is engaged in the business of manufacturing and trading of jewellery. The returns of income for both the years under consideration were filed by it on 29.09.2008 and 25.09.2012 declaring total income of Rs.1,15,40,837/- and Rs.2,52,88,300/- for A.Y. 2008-09 and 2012-13 respectively. In the assessment completed under section 143(3) for A.Y. 2008-09, the total income of the assessee was determined by the Assessing Officer at Rs.1,15,63,160/-. The said assessment was subsequently reopened by the

Assessing Officer and in the assessment completed under section 143(3)/147 vide an order dated 30.06.2015, the total income of the assessee was determined by him at Rs.1,34,06,235/- after making two additions of Rs.1,15,192/- and Rs.17,27,883/- on account of unexplained expenditure and the alleged inflated purchases respectively. The assessment for A.Y. 2012-13 was completed by the Assessing Officer under section 143(3) vide an order dated 23.03.2015 determining the total income of the assessee at Rs.2,81,04,003/- after making various additions/disallowances aggregating to Rs.28,15,703/-.

3. Against the orders passed by the Assessing Officer under section 143(3)/147 and 143(3) for A.Y. 2008-09 and 2012-13 respectively, the appeals were preferred by the assessee before the Id. CIT(Appeals) and since there was no compliance on the part of the assessee to the notices issued by him fixing the said appeals for hearing from time to time, the Id. CIT(Appeals) proceeded to dismiss the said appeals for non-prosecution vide his common appellate order dated 29.09.2016 passed *ex-parte*. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred these appeals before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. As submitted on behalf of the assessee, proper and sufficient opportunity of being heard was not given by the Id. CIT(Appeals) before dismissing its appeals for both the years under consideration for non-prosecution by his impugned order passed *ex-parte*. Moreover, as per sub-section (6) of section 250, the Id. CIT(Appeals) was required to dispose of the appeals of the assessee in writing stating the points for determination, the decision thereon and the reason for the decision. A perusal of the impugned order passed by the Id. CIT(Appeals), however, shows that the same does not fulfil the requirement of section 250(6), inasmuch as, he has dismissed the appeals of the assessee for non-prosecution without rendering any decision on the merits of the issues raised therein. We, therefore, set aside the

impugned order passed by the Id. CIT(Appeals) and remit the matter back to him for disposing of the appeals of the assessee for both the years under consideration afresh on merit in accordance with law after giving the assessee proper and sufficient opportunity of being heard. As undertaken by the Authorized Representative of the assessee, the assessee shall make due compliance before the Id. CIT(Appeals) and shall extend all the possible cooperation in order to enable him to dispose of the appeals expeditiously.

5. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 16th day of February, 2018.

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

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

Kolkata, the 16th day of February, 2018

- Copies to :*
- (1) **M/s. Satramdas Dhalamal,
Queens Mansion, 12J, Park Street,
Kolkata-700071**
 - 2) **Deputy Commissioner of Income Tax,
Circle-33, Kolkata,
10B, Middleton Row, 3rd Floor,
Kolkata-700 071**
 - (3) *CIT(Appeals)-9, Kolkata,*
 - (4) *CIT- , Kolkata,*
 - (5) *The Departmental Representative*
 - (6) *Guard File*
- TRUE COPY**

By Order

*Senior Private Secretary,
Head of Office/DDO,
Income Tax Appellate Tribunal
Kolkata Benches, Kolkata*