

आयकर अपीलिय अधीकरण, न्यायपीठ – “D” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH: KOLKATA
 (समक्ष) Before श्री ऐ. टी. वर्की, न्यायीक सदस्य एवं/and श्री एम .बालागणेश, लेखा सदस्य)
 [Before Shri A. T. Varkey, JM & Shri M.Balaganesh, AM]

I.T.A. No. 2396/Kol/2016
Assessment Year: 2012-13

Sri Krishna Chandra Sekhar (PAN: AVLPS2124D)	Vs.	Income-tax Officer, Wd-3(4), Kolkata
Appellant		Respondent

Date of Hearing	19.02.2018
Date of Pronouncement	28.02.2018
For the Appellant	N o n e
For the Respondent	Shri Arindam Bhattacharjee, Addl. CIT

ORDER

Per Shri A.T.Varkey, JM

The appeal filed by the assessee is against the order of Ld. CIT(A)-1, Kolkata dated 02.08.2016 for AY 2012-13 on the following grounds:

“1. For that on the facts and in the circumstances of the case and in law, the assessment order was framed u/s 143(3) without giving sufficient opportunity of being heard to the appellant and in that view of the matter the assessment may kindly be cancelled and set aside back to the file of the Assessing Officer.

2. For that on the facts and in the circumstances of the case and in law, the CIT(Appeals) erred in law and on facts in deciding the appeal ex-parte without giving the appellant sufficient opportunity of being heard and in that view of the matter the appellate order passed by the CIT(Appeals) may kindly be set aside and/or cancelled and restored back to the file of the CIT(Appeals) and/or the Assessing Officer

3. For that on the facts and in the circumstances of the case, the AO erred in law and on facts in treating the advances of Rs.67,50,315/- received from customers to be bogus and that the impugned addition deserves to be deleted in full.

4. For that on the facts and in the circumstances of the case and in law, the AO erred in assessing the outstanding creditors to be bogus and thereby making addition of Rs.2,15,480/-

5. For that on the facts and in the circumstances of the case and in law, the AO erred in facts & in law in treating the agricultural receipts of Rs.1,92,500/- to be in-genuine and thereby assessing it as taxable income.

6. For that on the facts and in the circumstances of the case and in law, the agricultural receipts of the appellant are genuine and in that view of the matter the Ao be directed to allow the exemption claimed in respect of such income u/s 10(1) of the Income-tax Act, 1961.

7. For that on the facts and in the circumstances of the case and in law, the AO was factually as well as legally unjustified in assessing sum of Rs.2,47,951/- as undisclosed receipts from contractual jobs.”

2. Though at the time of hearing before us, Ld. Counsel for the assessee was not present, we note from a perusal of the impugned order that it is an ex parte order passed without going into the merit of the case at all. The first and second ground of appeal preferred by the assessee/appellant is against the action of the Ld. CIT(A) in not granting reasonable opportunity to the assessee to pursue his appeal. We note that four times the appeal was fixed for hearing and the assessee had preferred twice adjournment application, which fact has been acknowledged by the Ld. CIT(A). True the appellant has to be vigilante while pursuing his appeal before the Appellate Authority and law does not help a sleeping person. However, in the interest of justice and fair play we are of the considered opinion that the appeal needs to be decided by Ld. CIT(A) on merits after giving reasonable opportunity to the assessee. The appeal of assessee is allowed for statistical purposes.

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

Order is pronounced in the open court on 28.02.2018

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Aby. T. Varkey)
Judicial Member

Dated : 28th February, 2018

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Sri Krishna Chandra Sekhar, Janata Dal Building, M. G. Road, Goal Ghar, Port Blair-744 102, Andaman & Nicobar Islands.
2. Respondent – ITO, Ward-3(4), Port Blair.
3. The CIT(A) Kolkata.
4. CIT Kolkata
5. DR, ITAT, Kolkata.

/True Copy,

By order,

Sr. Pvt. Secretary