

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA
[Before Shri P.M. Jagtap, Hon'ble Accountant Member]**

**I.T.A. No. 2422/Kol/2017
Assessment Year: 2011-12**

Esquire Express & Couries Services.....Appellant
C/o. Subash Agarwal & Associates
Siddha Gibson
1, Gibson Lane
2nd Floor Suite-213
Kolkata - 700 069
[PAN : AACFE 0708 P]

Income Tax Officer, Ward-1(1), Kolkata.....Respondent
Aaykar Bhawan
P-7 Chowringhee Square
Kolkata - 700 001

Appearances by:

Miss Somdulla Samaddar, Advocate, appeared on behalf of the assessee.
Shri Pinaki Mukherjee, Addl. CIT, DR appearing on behalf of the Revenue.

Date of concluding the hearing : February 22nd, 2018

Date of pronouncing the order : February 23rd, 2018

ORDER

Per P.M. Jagtap :-

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals)-1, Kolkata, dt. 27/09/2017, (hereinafter the 'Id. CIT (A)'), passed *ex-parte* u/s 250 of the Income Tax Act, 1961 (the 'Act'), dismissing the appeal filed by the assessee before him.

2. The assessee in the present case is a partnership firm which is engaged in the business of transportation of goods. The return of income for the year under consideration was filed by it on 29/09/2011 declaring total income of Rs.7,96,579/-. In the assessment completed u/s 143 (3) vide order dated 30/03/2014, the total income of the assessee was determined by the AO at Rs. 13,98,690/-after making two additions of Rs. 5,00,000/- and Rs. 1,02,110/-.

3. Against the order passed by the Assessing Officer u/s 143(3), an appeal was preferred by the assessee before the Id. CIT(A) and since there was no compliance on the part of the assessee to the notices issued by him fixing the said appeal for hearing from time to time, the Id. CIT(A) dismissed the same vide his

impugned order passed ex parte. Aggrieved by the order of the Id. CIT(A), 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. In support of the preliminary issue raised by the assessee in its appeal challenging the impugned order passed by the Id. CIT(A) ex parte without affording reasonable opportunity of hearing, the Id. Counsel for the assessee has filed an affidavit of Shri Krishna Chandra Prasad, partner of the assessee firm explaining the non-compliance during the course of appellate proceedings before the Id. CIT(A) as under:-

"1. That I am one of the Partner of Esquire Express & Courier Services. As such I am competent to swear this affidavit on behalf of the firm.

2. That being aggrieved with the Assessment Order dated 30.03.2014 in respect of the said firm, we filed appeal before the Id. CIT(A).

3. That the said appeal was dismissed by the Id. CIT(A) by passing an ex parte order.

4. That Sri Sandip Shukla, advocate, was engaged in the instant matter to appear before the Id CIT(A).

5. That Shri Sandip Shukla, Advocate, was very ill during the relevant period and thus, proper compliances could not be made. It later transpired that the said advocate expired on 05.08.2017.

6. That all the relevant documents were with Shri Sandip Shukla, Advocate only, so adjournments on 14. 0. 2017 and 26. 09. 2017 were taken by us.

7. That a given undertaking that proper compliances shall be made in case the above-mentioned case is sent back to the file of the Id. CIT(A)"

5. Keeping in view the of averments made in the affidavit, filed on behalf of the assessee, I am satisfied that there was a sufficient cause for the non-appearance of the assessee during the course of appellate proceedings before the Id. CIT(A). Even the Id. D/R, has not raised any objection in this regard. I, therefore, set aside the impugned order passed by the Id. CIT(A) ex parte and remit the matter back to him for disposing off the appeal of the assessee afresh on merits after giving sufficient opportunity of being heard to the assessee.

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

Kolkata, the 23rd day of February, 2018.

Sd/-
[P.M. Jagtap]
Accountant Member

Dated :23.02.2018
{SC SPS}

Copy of the order forwarded to:

1. Esquire Express & Couries Services
C/o. Subash Agarwal & Associates
Siddha Gibson
1, Gibson Lane
2nd Floor Suite-213
Kolkata – 700 069

2. Income Tax Officer, Ward-1(1), Kolkata
Aaykar Bhawan
P-7 Chowringhee Square
Kolkata – 700 001

3. CIT(A)-

4. CIT- ,

5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Senior Private Secretary
Head of Office/ D.D.O. ITAT, Kolkata Benches