

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

I.T.A. No. 2475/Kol/2017
Assessment Year: 2013-14

Shri Jagat Singh.....Appellant
*C/o. DCR Goods Carriers,
65A Pathuria Ghat Street
(Near Bangur Dharamshala),
Kolkata - 700 006
[PAN: ASTPS 3142 C]*

I.T.O. Ward 37(3) Kolkata.....Respondent
*3, Government Place,
Kolkata - 700 001*

Appearances by:

*Shri Sunil Surana, FCA appearing on behalf of the Assessee.
Shri Imlimeren Jamir, Addl. CIT appearing on behalf of the Revenue.*

Date of concluding the hearing : March 05, 2018

Date of pronouncing the order : March 07, 2018

ORDER

PER P.M. JAGTAP, AM

This appeal filed by the assessee is directed against the order of Ld. CIT (Appeals) - 12, Kolkata dated 22.06.2017 passed ex-parte whereby he confirmed the penalty of Rs. 1,50,000/- imposed by the A.O. under section 271B of the Income Tax Act, 1961.

2. The assessee in the present is an individual who is engaged in the business of goods carrier. The return of income for the year under consideration was filed by him on 30.09.2013 declaring a total income of Rs. 13,77,570/-. In the said return, total receipts of his business were shown by the assessee at Rs. 5,37,26,890/-. However his accounts for the year under consideration were not got audited by the assessee and the report of such audit was not furnished by him within the due date as required by the provisions of section 44AB.

The A.O., therefore, initiated penalty proceedings under section 271B and since no explanation to his satisfaction could be offered by the assessee for the failure to comply with the requirement of section 44AB, the A.O. proceeded to impose penalty of Rs. 1,50,000/- under section 271B of the Act.

3. The penalty imposed by the A.O. under section 271B was challenged by the assessee in the appeal filed by the Ld. 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 Ld. CIT(A) proceeded to dispose of the appeal of the assessee vide his appellate order dated 22.06.2017 passed ex-parte whereby he confirmed the penalty of Rs. 1,50,000/- imposed by the A.O. under section 271B of the Act. Aggrieved by the order of the Ld. 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. As submitted by the learned counsel for the assessee, there was a change in the address of the assessee after the filing of appeal before the Ld. CIT(A), but he failed to inform the same to the office of the Ld. CIT(A). He has contended that the assessee, therefore, could not receive the notices issued by the Ld. CIT(A) and although the non-compliance before the Ld. CIT(A) was attributable to the inadvertent mistake on the part of the assessee, one opportunity may be given to the assessee in the interest of justice to put-forth his case on merit by sending the matter back to the Ld. CIT(A). I find merit in this contention of the learned counsel for the assessee and since the learned DR has also not raised any

objection in this regard, I set aside the impugned order passed by the Ld. CIT(A) ex-parte and remit the matter back to him for disposing of the appeal of the assessee afresh on merit after giving one more opportunity to the assessee of being heard. As undertaken by the learned counsel for the assessee, the assessee shall make due compliance before the Ld. CIT(A) in order to enable him to dispose of the appeal expeditiously.

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

Order Pronounced in the Open Court on 7th March, 2018.

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

Dated: 07/03/2018
Biswajit, Sr. PS

Copy of order forwarded to:

1. Shri Jagat Singh, C/o. DCR Goods Carriers, 65A Pathuria Ghat Street (Near Bangur Dharmashala), Kolkata – 700 006.
2. ITO Ward 37(3), 3, Govt. Place, Kolkata – 700 001.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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