

आयकर अपीलीय अधीकरण, न्यायपीठ – “D” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH: KOLKATA**  
 (समक्ष) श्री ए. टी. वर्की, न्यायीक सदस्य एवं डॉ. अर्जुन लाल सैनी, लेखा सदस्य)  
 [Before Shri A. T. Varkey, JM & Dr. A. L. Saini, AM]

**I.T.A. No. 167/Kol/2017**  
**Assessment Year: 2012-13**

Ganeshvani Management Service Pvt. Ltd. (PAN: AAECG5863C)	Vs.	Income-tax Officer, Ward-1(1), Kol.
Appellant		Respondent

Date of Hearing	08.03.2018
Date of Pronouncement	28.03.2018
For the Appellant	Shri M. D. Shah, AR
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 07.12.2016 for AY 2012-13.

2. At the outset itself, the Ld. Counsel for assessee drew our attention to the fact that the impugned appellate order of Ld. CIT(A) is an ‘ex parte order’ and, therefore, there is violation of Natural Justice. The Ld. DR supported the decisions of authorities below and does not want us to interfere with the impugned order.

3. We have heard both the parties and perused the records. We note that the Ld. CIT(A) has fixed the hearing on two dates only i.e. on 23.08.2016 and 06.12.2016 and passed the impugned ex parte order on next day i.e on 07.12.2016. We note from the affidavit filed by the assessee that assessee did not get a copy of the notice of hearing from Ld. CIT(A), therefore, it could not attend the hearing before the Ld. CIT(A). In the aforesaid facts discussed above, we are of the opinion that assessee did not get proper opportunity before the Ld. CIT(A).

4. Moreover, we note on a perusal of the assessment order that summon u/s. 131 of the Income-tax Act, 1961 was issued by AO on 16.02.2015 asking the assessee company to

produce its directors along with certain details. However, AO taking note that no directors of the assessee company appeared before him, saddled the entire share capital of Rs.1,46,00,000/- u/s. 68 of the Act. The Ld. AR drew our attention to the fact that when summon was issued to the director of the assessee (Shri Suresh Prakash Gupta) he was unwell and could not attend the hearing. An affidavit of the Director of the assessee company explaining his absence pursuant to the summon issued by the AO has been also perused by us. In the light of the aforesaid facts and circumstances, we are of the considered opinion that assessee could not get proper opportunity before the AO, therefore, we set aside the ex parte order of the Id. CIT(A) and remand the matter back to AO to assess afresh after affording reasonable opportunity of being heard to the assessee in accordance to law. We also direct the assessee to appear before the AO diligently and participate in the proceedings and pursue the same in accordance to law. 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 28.03.2018

Sd/-  
(Dr. A. L. Saini)  
Accountant Member

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

Dated : 28th March, 2018

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – M/s. Ganeshvani Management Service Pvt. Ltd., C/o, D. J. Shah & Co., Kalyan Bhavan, 2, Elgin Road, Kolkata-700 020.
2. Respondent – ITO, Ward-1(1), Kolkata.
3. The CIT(A) Kolkata.
4. CIT Kolkata
5. DR, ITAT, Kolkata.

/True Copy,

By order,

Sr. Pvt. Secretary