

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA**
[Before Sri Aby T Varkey Judicial Member & Dr. A.L. Saini, Accountant Member]

I.T.A. No. 592/Kol/2016
Assessment Year: 2011-12

Shri Tarun Kumar Mallick.....Appellant
8, N.K. Chatterjee Street, Belghoria,
Near Mahakali Girls School,
Kolkata - 700 056.
[PAN : AFGPM 9092 R]

Income Tax Officer, Ward-26(4), Kolkata.....Respondent
2, Gariahat Road (South),
Kolkata - 700 068

Appearances by:

Shri Soumitra Choudhury, Advocate appearing on behalf of the Assessee.

Shri Saurabh Kumar, Addl. CIT DR appearing on behalf of the Revenue.

Date of concluding the hearing : March 27, 2018

Date of pronouncing the order : March 28, 2018

ORDER

Per Dr. A.L. Saini, AM :-

The captioned appeal filed by the assessee, pertaining to assessment year 2011-12 is directed against the order passed by the Ld. Commissioner of Income Tax (Appeals) - 7, Kolkata in Appeal No. 635/CIT(A)-7/Ward 26(4)/14-15 Dated 20.02.2016 which in turn arises out of an order passed by the A.O. u/s 144 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') dated 26.03.2014.

2. At the outset, the learned counsel for the assessee has brought to our notice that the Chartered Accountant who used to handle the assessment proceedings (AR- Partha Sarathi) was unwell during the assessment proceedings, so he could not attend before the Assessing Officer and could not file the necessary documents before him which resulted in 144 order against the assessee. When the appeal was pending before the Ld. CIT(A), unfortunately the Chartered Accountant passed away (died), therefore, none attended in the appellate proceedings which also resulted in an ex parte order against the assessee. In the aforesaid scenario, we note that the Assessing Officer passed an order under section 144 of the Act and because the assessee's counsel died, none appeared on behalf of the assessee before the Ld. CIT(A). Therefore, we are of the view that assessee did not get proper opportunity to pursue the matter before authorities below.

3. In the light of the aforesaid facts & circumstances, we are of the view that the assessment needs to be framed de novo. Therefore, we set aside the order of the Ld. CIT(A) and restore the matter back to the file of the Assessing Officer to adjudicate the assessment de novo. The assessee is at liberty to produce the relevant documents before the Assessing Officer to substantiate its claim in accordance with law.

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

Kolkata, the 28th day of March, 2018.

Sd/-
[Aby T. Varkey]
Judicial Member

Sd/-
[Dr. A.L. Saini]
Accountant Member

Dated : 28.03.2018
{RS, SPS}

Copy of the order forwarded to:

1. *Shri Tarun Kumar Mallick,*
8, N.K. Chatterjee Street, Belghoria,
Near Mahakali Girls School,
Kolkata - 700 056
2. *Income Tax Officer, Ward-26(4), Kolkata*
2, Gariahat Road (South),
Kolkata - 700 068
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