

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH (B), KOLKATA**

**[Before Shri P.M. Jagtap, AM & Shri S.S. Viswanethra Ravi, JM]**

I.T.A. No. 79/Kol/2017  
Assessment Year: 2012-13

**Abhiyan Cargo Pvt. Ltd.....Appellant**  
**61A, Park Street,**  
**12, Ambassador Apartment,**  
**Kolkata - 700 016**  
**[PAN: AAECA 4385 P]**

**ITO Ward 8(1).....Respondent**  
**Aayakar Bhawan,**  
**P-7, Chowringhee Square,**  
**Kolkata - 700 069**

**Appearances by:**

*Shri Manish Tiwari, FCA appeared on behalf of the Assessee.*

*Shri S. Dasgupta, Addl CIT(DR) appearing on behalf of the Revenue.*

Date of concluding the hearing : April 04, 2018

Date of pronouncing the order : April 04, 2018

**ORDER**

**PER P.M. JAGTAP, AM**

This appeal filed by the assessee is directed against the order of Ld. CIT(Appeals) - 3, Kolkata dated 28.11.2016 passed ex-parte whereby he dismissed the appeal filed by the assessee before him.

2. The assessee in the present case is a company which is engaged in the business of manufacturing of transportation. The return of income for the year under consideration was filed by it on 30.09.2012 declaring a loss of Rs. 13,26,736/-. In the assessment completed under section 143(3) vide order dated 28.03.2015, the total income of the assessee was determined by the A.O. of Rs. 80,18,940/- after making the following additions:

“1. Disallowance U/S 14A                      Rs. 21,380/-

2. Difference between the sundry debtors balance Rs. 93,04,083

*3. Disallowance of assessee's claim for loss on sale of motor cycle Rs 20,210/-"*

3. Against the order passed by the A.O. under section 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) disputing all the three additions made by the A.O. to its total income and since there was no satisfactory 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) dismissed the appeal of the assessee vide his impugned order passed ex-parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. The assessee raised a preliminary issue in this appeal challenging the impugned order passed by the Ld. CIT(A) ex-parte on the ground that the same was passed without allowing reasonable, adequate and effective opportunity of being heard. In this regard, the learned counsel for the assessee has submitted that the appeal filed by the assessee before him was fixed for hearing by the Ld. CIT(A) on 03.11.2016. The assessee however sought adjournment and since none appeared on the adjourned date, he dismissed the appeal of the assessee vide his impugned order passed ex-parte without giving any further opportunity to the assessee of being heard. A perusal of the impugned order of the Ld. CIT(A) also shows that the appeal of the assessee was fixed for hearing initially on 03.11.2016 and when the assessee sought adjournment, a very short period of time was allowed by him which is evident from the fact that the appeal of the assessee was dismissed by him vide his impugned order passed ex-parte on

28.11.2016. We, therefore, find merit in the contention of the learned counsel for the assessee that the appeal of the assessee filed before him was dismissed by the Ld. CIT(A) vide his impugned order passed ex-parte without allowing reasonable, adequate and effective opportunity of hearing to the assessee and even the learned DR has not been able to dispute this position. We, therefore, 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 afresh after giving proper and sufficient opportunity of being heard to the assessee.

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

Order Pronounced in the Open Court on 4<sup>th</sup> April, 2018.

Sd/-

(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

Sd/-

(P.M. Jagtap)  
ACCOUNTANT MEMBER

**Dated: 04/04/2018**

Biswajit, Sr. PS

Copy of order forwarded to:

1. Abhiyan Cargo Pvt. Ltd., 61A, Park Street, 12, Ambassador Apartment, Kolkata – 700 016.
2. I.T.O. Ward 8(1), Aayakar Bhawan, P-7, Chowringhee Square, Kolkata – 700 069.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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