

आयकर अपीलिय अधीकरण, न्यायपीठ – “D” कोलकाता,  
*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH “D” KOLKATA*

Before **Shri Waseem Ahmed, Accountant Member** and  
**Shri S.S.Viswanethra Ravi, Judicial Member**

**ITA No.394/Kol/2017**  
Assessment Year:2011-12

Intimate Commotrade Pvt. Ltd. C/o D.J. Shah & Co Kalyan Bhavan, 2 Elgin Road, Kolkata-20 [PAN No.AACCI 4983 R]	<b>बनाम</b> / V/s.	Income Tax Officer, Ward-6(2), Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri M.D. Shah, AR
प्रत्यर्थी की ओर से/By Respondent	Shri A. K. Tiwari. CIT-DR
सुनवाई की तारीख/Date of Hearing	02-04-2018
घोषणा की तारीख/Date of Pronouncement	06-04-2018

**आदेश /O R D E R**

**PER Waseem Ahmed, Accountant Member:-**

This appeal by the assessee for assessment year 2011-12 is directed against the order of Commissioner of Income Tax (Appeals)-6, Kolkata dated 27.12.2016.

Shri M.D.Shah, Ld. Authorized Representative appeared on behalf of assessee and Shri A. K.Tiwari, Ld. Departmental Representative appeared on behalf of Revenue.

2. At the outset, it was observed that the Ld. CIT(A) decided the appeal *ex parte* vide order dated 27.12.2016 due to non-appearance of the assessee or his authorized representative but after considering the written submission filed by the assessee. Against the impugned *ex parte* order of Ld. CIT(A) assessee filed an appeal before us and pleaded that the impugned order by the ld. CIT(A) has been passed without giving opportunity to the assessee. The ld. AR before us prayed to restore the matter to the file of ld. CIT(A) for fresh adjudication in accordance with the law. The ld. AR also submitted that the assessee was suffering from high fever on the last date of hearing i.e. 18.12.2016 therefore he failed to attend the same. The ld. AR in support of his claim filed the copy of the affidavit duly notarized & signed by the assessee.

On the other hand the ld. DR has agreed with the submission of Ld. AR for the assessee if the matter is remanded to the ld. CIT(A) for fresh adjudication as per the provision of law.

3. Heard both the parties and perused the materials available on record. On perusal of appellate order, we find that Ld. CIT(A) affirmed the action of Assessing Officer *ex parte* without affording reasonable opportunity of being heard to the assessee.

3.1. We also note that the assessee failed to appear on the last date of hearing due to illness as stated in the affidavit filed before us. Hence, Ld. CIT(A) passed *ex parte* order. Thus, in such circumstances we find in the interest of justice and fair play that Ld. CIT(A) should have given another opportunity to the assessee to appear before him to explain its points of contentions. Therefore, in this view of the matter, we are inclined to remit the matter back to the file of Ld. CIT(A) with the direction to decide the issue raised by assessee on merit after giving reasonable opportunity of being heard to assessee. It is needless to say that the assessee should co-operate in the appellate proceeding and attend the hearing as

and when required by Ld. CIT(A) . Hence, this ground of assessee's appeal stands allowed for statistical purpose.

**4. In the result, for statistical purpose, appeal of assessee is treated as allowed.**

Order pronounced in open court on 06/04/2018

Sd/-  
(न्यायिक सदस्य)  
(S.S.Viswanethra Ravi)  
Judicial Member

Sd/-  
(लेखा सदस्य)  
(Waseem Ahmed)  
Accountant Member

\*Dkp, Sr.P.S

दिनांक:- 06/04/2018 कोलकाता / Kolkata

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-Intimate Commotrade Pvt. Ltd. C/o D.J. Shah & Co  
Kalyan Bhavan, 2 Elgin Road,Kolkata-20
2. प्रत्यर्थी/Respondent-ITO, Ward-6(2),Aayakar Bhawan, P-7,Chowringhee Sq. Kol-69
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary  
Head of Office/DDO  
आयकर अपीलीय अधिकरण,  
कोलकाता