

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'C(SMC)' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member**

**I.T.A. No. 551/KOL/2017  
Assessment Year: 2012-2013**

***Radhika Bihari Consultants (P) Limited.....Appellant***  
***8, Ganesh Chandra Avenue,***  
***Kolkata-700 013***  
***[PAN: AAECR 3699 D]***

**-Vs.-**

***Income Tax Officer,.....Respondent***  
***Ward-2(1), Kolkata,***  
***Aayakar Bhawan,***  
***P-7, Chowringhee Square,***  
***Kolkata-700 069***

**Appearances by:**

*Shri Subash Agarwal, Advocate, for the Appellant*  
*Shri D.C. Mondal, Addl. CIT, D.R., for the Respondent*

Date of concluding the hearing : May 29, 2018

Date of pronouncing the order : May 29, 2018

**O R D E R**

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-1, Kolkata dated 31.01.2017 passed *ex-parte*, whereby he dismissed the appeal of the assessee.

2. The assessee in the present case is a Company, which is engaged in the business of trading in textiles. The return of income for the year under consideration was filed by it on 30.09.2012 declaring total income of Rs.18,198/-. During the course of assessment proceedings, the assessee could not satisfactorily explain the share capital and share premium amounts aggregating to Rs.47,50,000/- received during the year under consideration in terms of section 68. The Assessing Officer, therefore, treated the same as unexplained cash credits and made an addition of

Rs.47,50,000/- to the total income of the assessee in the assessment completed under section 143(3) vide an order dated 24.03.2015.

3. Against the order passed by the Assessing Officer under section 143(3), an appeal was preferred by the assessee before the Id. CIT(Appeals) challenging the addition of Rs.47,50,000/- made by the Assessing Officer under section 68 and since there was no compliance on the part of the assessee to the notices issued by the Id. CIT(Appeals) fixing the said appeal for hearing from time to time, the Id. CIT(Appeals) dismissed the appeal of the assessee vide his appellate order dated 31.01.2017 passed *ex-parte*. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. In this appeal, the assessee has raised a preliminary issue challenging the impugned order passed by the Id. CIT(Appeals) *ex-parte* on the ground that proper and sufficient opportunity was not given by the Id. CIT(Appeals). In this regard, the Director of the assessee-company has filed an affidavit explaining the non-compliance to the notices issued by the Id. CIT(Appeals) as under:-

*"(1) That the said appeal was initially fixed for hearing on 26.09.2016 before the Hon'ble CT(A).*

*(2) That on the said date, a petition was filed seeking for an adjournment and the case was adjourned to 30.09.2016.*

*(3) That on 30.09.2016, I was suffering from fever and as such, was unable to attend the hearing.*

*(4) That on the next working date, when I went to the office of the Id. CT(A), I was told that a fresh notice would be issued fixing a new date of hearing and later it was found that an *ex-parte* order was passed by the Hon'ble CIT(A).*

*(5) That in the said order, it was mentioned that the case was subsequently fixed for hearing on 26.12.2016 and 30.01.2017. However, we did not receive any such notice of hearing.*

5. Keeping in view the affirmation made by the Director of the assessee-company on oath as above, we are satisfied that there was a sufficient cause for the non-appearance of the assessee before the Id. CIT(Appeals) when its appeal was fixed for hearing. The Id. D.R. has also not raised any material contention to dispute this position. I, therefore, set aside the impugned order passed by the Id. CIT(Appeals) *ex-parte* and remit the matter back to him for disposing of the appeal of the assessee afresh on merit after giving the assessee proper and sufficient opportunity of being heard.

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

Order pronounced in the open Court on May 29, 2018.

**Sd/-  
(P.M. Jagtap)  
Accountant Member**

***Kolkata, the 29<sup>th</sup> day of May, 2018***

- Copies to :
- (1) ***Radhika Bihari Consultants (P) Limited,  
8, Ganesh Chandra Avenue,  
Kolkata-700 013***
  - (2) ***Income Tax Officer,  
Ward-2(1), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee Square,  
Kolkata-700 069***
  - (3) ***Commissioner of Income Tax (Appeals)-1,***
  - (4) ***Commissioner of Income Tax- ,***
  - (5) ***The Departmental Representative***
  - (6) ***Guard File***

*By order*

***Senior Private Secretary,  
Head of Office/D.D.O.  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata***

***Laha/Sr. P.S.***