

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "SMC", KOLKATA**

BEFORE SH. P.M.JAGTAP, ACCOUNTANT MEMBER

**ITA No.1048/KOL/2018
[Assessment Year: 2014-15]**

Sri Bhagirath Kumar Tibrewal, Chittaranjan Avenue, Trust House, 5 th Floor, Kolkata-700012. PAN-ABRPT0381M	vs	ITO, Ward-22(4), 54/1, Rafi Ahmed Kidwai Road, Kolkata-700016.
(Appellant)		(Respondent)
Appellant by	Sh. Miraj D.Shah, AR	
Respondent by	Sh. Saurav Kumar, Addl. CIT	
Date of Hearing	13.08.2018	
Date of Pronouncement	13.08.2018	

ORDER

PER P.M.JAGTAP, ACCOUNTANT MEMBER

This appeal filed by the assessee is directed against the order of Ld. CIT(A)-6, Kolkata dated 15.03.2018 whereby he dismissed the appeal of the assessee ex-parte for non-prosecution.

2. The assessee in the present case is an individual who is practising as a Chartered Accountant. The return of income for the year under consideration was filed by him on 24.12.2014 declaring a total income of Rs.2,42,370/-. In the assessment completed u/s 143(3) of the Income Tax Act, 1961 (in short "Act") vide an order dated 24.12.2016, the total income of the assessee was determined by the AO at Rs.19,28,840/- after making an addition of Rs.16,86,465/- by disallowing the assessee's claim for exemption on account of long term capital gain u/s 10(38) of the Act. Against the order passed by the AO u/s 143(3), an appeal was preferred by the assessee before Ld.CIT(A) 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, Ld.CIT(A) dismissed the appeal of the assessee for non-prosecution vide his appellate order dated 15.03.2018 passed ex-parte. Aggrieved

by the order of Ld.CIT(A), the assessee has preferred this appeal before the Tribunal.

3. I have heard the arguments of both the sides and perused the relevant material available on record. Ld. Counsel for the assessee has submitted that a written submission was filed by the assessee in support of his case on merit before Ld.CIT(A) on 12.02.2018. He has submitted that Ld.CIT(A) however, dismissed the appeal of the assessee for non-prosecution without taking into consideration the said written submission already filed by the assessee before him. He has contended that the matter may therefore, be sent back to the Ld.CIT(A) for disposing of the appeal of the assessee afresh on merit after taking into consideration the said written submission.

4. Keeping in view all the facts of the case as borne out from the record, I find merit in this contention of the Ld. Counsel for the assessee. Even the Ld. DR has not raised any objection in this regard. Accordingly, the impugned order passed by Ld.CIT(A) ex-parte is set aside and the matter is remitted back to him for disposing of the appeal of the assessee afresh on merit after taking into consideration the written submission already filed by the assessee.

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

Order pronounced in the open court on 13.08.2018.

**Sd/-
(P.M.JAGTAP)
ACCOUNTANT MEMBER**

*Date:- 13.08.2018
*Amit Kumar**

Copy forwarded to:

1. Appellant- Sri Bhagirath Kumar Tibrewal, 32A, Chittaranjan Avenue, Trust House, 5th Floor, Kolkata-700012.
2. Respondent- ITO, Ward-22(4), 54/1, Rafi Ahmed Kidwai Road, Kolkata-700016.
3. CIT-Kolkata
4. CIT(Appeals)-Kolkata Bench
5. DR: ITAT-Kolkata

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