

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH: KOLKATA**

Before: **Shri J. Sudhakar Reddy, Accountant Member** and  
**Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A No. 604/Kol/2015**

A.Y: 2008-09

**Nishi Kanta Ghosh**  
PAN: ADXPG3988P

**Vs.**

**Income-tax Officer**  
**Ward 55(2), Kolkata**

[Appellant]

[Respondent]

For the Appellant : Shri Swapan Mukherjee, CA, Id.AR  
For the Respondent : Shri S. Dasgupta, Addl.CIT, Id.Sr.DR

Date of hearing : 13-06-2018

Date of pronouncement : 05-09-2018

**ORDER**

**Shri S.S. Viswanethra Ravi, JM:**

This appeal by the Assessee is directed against the order of the Commissioner of Income Tax (Appeals), XXXVI, Kolkata dt. 09-09-2014 for the A.Y 2008-09.

2. The only issue is to be decided as to whether the CIT-A is justified in confirming the addition/disallowance made by the AO for non-deduction of TDS in the facts and circumstances of the case.

3. At the outset, it is noticed that the appeal of assessee was filed with the delay of 201 days. After hearing both the parties and perusing the affidavit dt. 25<sup>th</sup> May 2015 filed by assessee stating the reasons therein and the delay of 201 days are condoned.

4. After hearing both the parties, we find that the assessee filed additional submissions in respect of commission to salesmen. The CIT-A sought remand report from the AO. According to CIT-A, he sent the remand report to assessee for his comments. However, for non-compliance of the same, he confirmed the addition(s) made by the

AO. We find that the said remand report was received by the assessee on 15-11-2014, but the CIT-A passed his order on 09-09-2014. Therefore, taking into consideration the submissions of the Id.AR, facts of the case and in the interest of justice, we deem it fit and proper to remand the matter to the file of CIT-A for his fresh adjudication. The assessee is at liberty to file necessary evidences/explanation in support of his contention, claim and reply to remand report. Grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 05-09-2018

Sd/-  
**J. Sudhakar Reddy**  
**Accountant Member**

Sd/-  
**S.S. Viswanethra Ravi**  
**Judicial Member**

Dated : 05-09-2018

PP(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant/Assessee: Shri Nishi Kanta Ghosh, Ghosh Medical Agency, Amita, Sahapara, Howrah-711401.
  2. Respondent/Revenue : Income Tax Officer, Ward 55(2), 54/1 Rafi Ahmed Kidwai Road, Kolkata-16.
  3. The CIT(A), Kolkata
  4. CIT , Kolkata
  5. DR, Kolkata Benches, Kolkata
- /True Copy, By order,

Senior Private Secretary  
Head of Office, ITAT Kolkata