

**IN THE INCOME TAX APPELLATE TRIBUNAL "A", BENCH KOLKATA  
BEFORE SHRI A. T. VARKEY, JM & DR. A.L. SAINI, AM**

**ITA No.770/Kol/2017**  
(Assessment Year: 2012-13)

<b>Jai Shree Balaji Fat &amp; Oils Pvt. Ltd.</b>  Parijat Building, 2 <sup>nd</sup> Floor, R.No.A06 24A, Shakespeare Sarani, Kolkata – 700 017.	Vs.	<b>ITO, Ward-7(4), Kolkata</b>  P-7, Chowringhee Square, Kolkata – 700 069.
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABCJ 1298 B</b>		
<b>(अपीलार्थी /Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>

Appellant by : Shri Manish Tiwari, FCA  
Revenue by : Shri Sallong Yaden, CIT(Sr. DR)

सुनवाई की तारीख / **Date of Hearing :** 19/07/2018  
घोषणा की तारीख/**Date of Pronouncement:** 03/10/2018

**आदेश / O R D E R**

**Per Dr. A. L. Saini, AM:**

The captioned appeal filed by the assessee, pertaining to Assessment Year 2012-13, is directed against the order passed by Id. Commissioner of Income Tax (Appeals)-3, Kolkata in Appeal No.863/CIT(A)-3/ITO, Wd-&(4)/Kol/15-16, dated 14.02.2017, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') dated 26.03.2015.

3. At the outset itself, the Id. Counsel for the assessee assailed the impugned order by contending that the assessee could not represent his case before Id. CIT(A) and the order being an ex-parte order, stood vitiated on account of violation of principle of natural justice. The Id counsel stated before us that assessee could not appear before the Id. CIT(A) on 30.01.2017, because of the circumstances were beyond his control. Thereafter, the Id. CIT(A) did not give further opportunity for hearing, therefore, it is against the principle of natural

justice, hence the matter should be remitted back to the file of the Id. CIT(A) for fresh adjudication.

The Id. DR for the Revenue refrained from objecting the stand of the Id. Counsel.

4. We note that Id. CIT(A) has passed the *ex parte* order observing the following:

*“2. The case was fixed for hearing on 30.01.2017. The case has gone unrepresented and neither any further time was sought by way of an adjournment application. The appellant does not appear to be serious about pursuing this appeal. Hence, I proceed to decide the appeal on the basis of material on record.”*

It seems to us that Id. CIT(A) did not give enough opportunity for hearing. The case was fixed for hearing only on 30.01.2017. The Id. CIT(A) ought to have given more opportunity for hearing.

5. We note that in the assessee's case under consideration, the assessment was carried out u/s 143(3) of the Act and the impugned order passed by the Id. CIT(A) is an *ex parte* order, therefore, we do not wish to make any comments on the merits of the grounds raised by the assessee.

6. We note that a perusal of the body of the impugned order, it is apparent that it is an *ex parte* order which has been challenged by the assessee for want of proper opportunity. We are of the view that one more opportunity should be given to the assessee to plead his case before the Id. CIT(A). Therefore, without delving much deeper into the merits of the case, in the interest of justice, we restore the matter back to the file of Ld. CIT(A) for *de novo* adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, we deem it fit and proper

to set aside the order of the Id. CIT(A) and remit the matter back to the file of the Id. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order pronounced in the open court on this 03/10/2018.

**Sd/-**  
**(A. T. Varkey)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**कोलकाता /Kolkata;**

Dated:03/10/2018

RS, Sr. PS

**Sd/-**  
**(A. L. Saini)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

**आदेश की प्रतिलिपि अग्रोषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant- Jai Shree Balaji Fat & Oils Pvt. Ltd
2. प्रत्यर्थी / The Respondent.- ITO, Ward-7(4), Kolkata
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाईल / Guard file.

//True Copy//

By Order

Senior Private Secretary,  
Head of Office/D.D.O,  
I.T.A.T, Kolkata Benches,  
Kolkata.