

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

Before Shri P.M. Jagtap, Vice-President (KZ)

**I.T.A. No. 1669/KOL/2018
Assessment Year: 2012-2013**

Ramakant Beriwal,.....Appellant
5, Clive Row, Room No. 23,
Kolkata-700 001
[PAN: ADWPB 8576 F]

Vs.-

Income Tax Officer,.....Respondent
Ward-36(1), Kolkata,
Aayakar Bhawan Poorva,
110, Shanti Pally,
Kolkata-700 107

Appearances by:

Shri Manish Tiwari, FCA, for the Appellant
Shri Satyajit Mondal, Addl. CIT, D.R., for the Respondent

Date of concluding the hearing : November 22, 2018
Date of pronouncing the order : November 22, 2018

O R D E R

This appeal filed by the assessee is directed against the order of ld. Commissioner of Income Tax (Appeals)-10, Kolkata dated 08.06.2018 passed ex-parte dismissing the appeal of the assessee.

2. The assessee in the present case is an individual, who is engaged in the business of trading and investment in shares and securities. The return of income for the year under consideration was filed by him on 31.07.2012 declaring a loss of Rs.5,411/-. In the assessment completed under section 143(3) vide an order dated 30.03.2015, the total income of the assessee was determined by the Assessing Officer at Rs.9,04,980/- after making certain additions.

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) disputing the additions made by the Assessing Officer to his total income and since there was no compliance on the part of the assessee to the notices issued by him fixing the said appeal for hearing from time to time, the Id. CIT(Appeals) disposed of the appeal of the assessee vide his appellate order dated 08.06.2018 passed ex-parte sustaining the substantial additions made by the Assessing Officer. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. I have heard the arguments of both the sides and also perused the relevant material available on record. The Id. Counsel for the assessee has submitted that the appeal filed by the assessee for the year under consideration was taken up for hearing by the Id. CIT(Appeals) along with other appeal of the assessee for A.Y. 2014-15. He has contended that the submissions in support of his appeal for A.Y. 2014-15 were duly made by the assessee before the Id. CIT(Appeals) and since the submissions for the year under consideration i.e. A.Y. 2012-13 were not ready, adjournment was sought verbally during the course of hearing. He has contended that the Id. CIT(Appeals) disposed of the appeal of the assessee for A.Y. 2014-15 on merit after taking into consideration the submissions made before him but inadvertently disposed of the appeal of the assessee for the year under consideration ex-parte under the impression that there was no adjournment or compliance. He has contended that the assessee thus has not got proper and sufficient opportunity of being heard before the Id. CIT(Appeals) in the matter of his appeal filed for the year under consideration and urged that the matter may be sent back to the Id. CIT(Appeals) for giving such opportunity to the assessee. Keeping in view the submissions made by the Id. Counsel for the assessee, I am inclined to accede to the request made by him and since the Id. D.R. has also not

raised any objection in this regard, I remit the matter back to the Id. CIT(Appeals) 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 November 22, 2018.

**Sd/-
(P.M. Jagtap)
Vice-President (KZ)**

Kolkata, the 22nd day of November, 2018

- Copies to :*
- (1) ***Shri Ramakant Beriwal,
5, Clive Row, Room No. 23,
Kolkata-700 001***
 - (2) ***Income Tax Officer,
Ward-36(1), Kolkata,
Aayakar Bhawan Poorva,
110, Shanti Pally,
Kolkata-700 107***
 - (3) ***Commissioner of Income Tax (Appeals)-10, Kolkata,***
 - (4) ***Commissioner of Income Tax- ,***
 - (5) ***The Departmental Representative***
 - (6) ***Guard File***

By order

***Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata***

Laha/Sr. P.S.