

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'D' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Vice-President (KZ)  
and Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. No. 419/KOL/2018  
Assessment Year: 2012-2013**

***M/s. Yogendra International,.....Appellant  
4, Narayan Prasad Babu Lane,  
Kolkata-700 007  
[PAN: AAIFY 2407 R]***

**-Vs.-**

***Income Tax Officer,.....Respondent  
Ward-45(4), Kolkata,  
3, Government Place West,  
Kolkata-700 001***

**Appearances by:**

*Shri A. Barnwal, FCA, for the Appellant  
Shri S. Halder, Sr. D.R., for the Respondent*

Date of concluding the hearing : December 20, 2018  
Date of pronouncing the order : December 20, 2018

**O R D E R**

**Per Shri P.M. Jagtap, Vice-President (KZ):-**

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-13, Kolkata dated 17.01.2018 passed ex-parte, whereby he dismissed the appeal of the assessee and confirmed the penalty of Rs.79,401/- imposed by the Assessing Officer under section 271(1)(c) of the Act.

2. The assessee in the present case is a partnership firm. In the assessment completed under section 143(3) vide an order dated 23.03.2015, the total income of the assessee was determined by the Assessing Officer at Rs.10,32,640/- as against the income of Rs.7,75,675/-

declared in the return of income after making certain additions to the total income of the assessee on account of disallowance of various expenses. Penalty proceedings under section 271(1)(c) were also initiated by the Assessing Officer and since the explanation offered by the assessee in support of the show-cause notice issued during the course of the said proceedings was not found acceptable by him, the Assessing Officer imposed penalty of Rs.79,401/- under section 271(1)(c) of the Act being 100% of the tax sought to be evaded by the assessee. The penalty imposed by the Assessing Officer under section 271(1)(c) was challenged by the assessee before the Id. CIT(Appeals) and since there was no compliance on the part of the assessee to the notices issued by him fixing the said appeal for hearings from time to time, the Id. CIT(Appeals) dismissed the appeal of the assessee vide his appellate order dated 17.01.2018 passed ex-parte thereby confirming the penalty imposed by the Assessing Officer under section 271(1)(c). Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

3. We have heard the arguments of both the sides and also perused the relevant material available on record. In support of the preliminary issue raised by the assessee in this appeal challenging the impugned order passed by the Id. CIT(Appeals) ex-parte, the Id. Counsel for the assessee has submitted that the notices of hearings fixed by the Id. CIT(Appeals) were never received by the assessee and none, therefore, could appear on behalf of the assessee before the Id. CIT(Appeals) on said dates of hearings. Keeping in view this reason given by the Id. Counsel for the assessee, we are satisfied that there was a sufficient cause for the non-appearance of the assessee before the Id. CIT(Appeals). Even the Id. D.R. has not raised any objection in this regard. We, 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.

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

Order pronounced in the open Court on December 20, 2018.

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

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

***Kolkata, the 20<sup>th</sup> day of December, 2018***

- Copies to :*
- (1) M/s. Yogendra International,  
4, Narayan Prasad Babu Lane,  
Kolkata-700 007**
  - (2) Income Tax Officer,  
Ward-45(4), Kolkata,  
3, Government Place West, Kolkata-700 001**
  - (3) Commissioner of Income Tax (Appeals)-13, 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.**