

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

**[Before Sri P.M. Jagtap, Vice President, KZ & Sri S.S. Viswanethra Ravi, Judicial Member]**

**I.T.A. No. 39/Kol/2018**  
Assessment Year: 2013-14

**Shri Sourav Biswas**.....**Appellant**  
**123/2, A.P.C. Road**  
**Kolkata - 700 006**  
**[PAN : AIUPB 6815 E]**

**Income Tax Officer, Ward-37(1), Kolkata**.....**Respondent**

**Appearances by:**

*Shri Soumitra Choudhury, Advocate, appeared on behalf of the assessee.*  
*Shri Sankar Halder, JCIT Sr. D/R, appearing on behalf of the Revenue.*

Date of concluding the hearing : January 2<sup>nd</sup>, 2019  
Date of pronouncing the order : January 16<sup>th</sup> 2019

**O R D E R**

**Per S.S. Viswanethra Ravi, JM :-**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) - 2, Kolkata, (hereinafter the 'Id. CIT (A)'), passed u/s 250 of the Income Tax Act, 1961 (the 'Act'), dt. 13/07/2017, for the Assessment Year 2013-14.

2. Before us, this appeal was filed with a delay of 101 days and the assessee filed an affidavit stating reasons. On perusal of the said facts and hearing both the parties, we find the reasons stated therein are *bonafide* and, therefore, the delay of 101 days in filing of the appeal are condoned.

3. Heard both the parties and perused the material on record. The assessee is an individual and is engaged in the business of wholesale trading of food items, edible oil and pulses.

4. It is pertinent to note that there was no representation before the Assessing Officer in the assessment proceedings and the Id. A/R submits that if the Tribunal pleases to remand the issue to the file of the Assessing Officer, the assessee

undertakes to place all the relevant details regarding the factual aspects before the Assessing Officer.

5. It is noted that the assessee raised the grounds challenging the action of the Id. CIT(A) in confirming the additions involving estimation of net profit, addition on account of unexplained cash credit and treating the gifts received as unexplained cash credit. But, however, it is observed from the impugned order that the Id. CIT(A) without deciding the grounds on merits disposed off the grounds *ex-parte*.

5.1. In our opinion, taking into consideration the facts and circumstances of the case and additions confirmed thereon requires finding by the Id. CIT(A) and as discussed above since the Id. CIT(A) decided the appeal grounds *ex-parte*, in the interest of justice, we deem it proper to remand the matter to the file of the Assessing Officer for his fresh consideration subject to a payment of cost of Rs.5,000/- by the assessee in favour of Prime Minister Relief Fund, within 15 days from the date of receipt of this order. The assessee is at liberty to file evidence, if any, before the Assessing Officer in support of his claims. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

***Kolkata, the 16<sup>th</sup> day of January, 2019.***

**Sd/-**  
**[P.M. Jagtap]**  
Vice President

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

Dated : 16.01.2019  
{SC SPS}

*Copy of the order forwarded to:*

**1. Shri Sourav Biswas**  
**123/2, A.P.C. Road**  
**Kolkata - 700 006**

**2. Income Tax Officer, Ward-37(1), Kolkata**

3. CIT(A)-

4. CIT- ,

5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Assistant Registrar  
ITAT, Kolkata Benches