

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH (D), KOLKATA**

[Before Shri P.M. Jagtap, Vice President & Shri A.T. Varkey, Judicial Member]

I.T.A. No. 2092/Kol/2017
Assessment Year: 2012-13

Kasturi Power Products Pvt. Ltd.....Appellant
C/o D.J. Shah & Co.
Kalyan Bhawan, 2, Elgin Road,
Kolkata - 700 020.
[PAN: AAECK 1531 H]

ITO Ward 4(4), Kolkata.....Respondent
P-7, Chowringhee Square,
Kolkata - 700 069.

Appearances by:

Shri M.D. Shah, AR appearing on behalf of the Assessee.

Shri Sankar Halder, JCIT, Sr. DR appearing on behalf of the Revenue.

Date of concluding the hearing : January 09, 2019

Date of pronouncing the order : January 09, 2019

ORDER

Per P.M. Jagtap, Vice President

This appeal filed by the assessee is directed against the order of Ld. CIT(A) - 2, Kolkata dated 14.12.2016 passed ex-parte dismissing the appeal of the assessee.

2. The assessee in the present case is a company which filed its return of income for the year under consideration declaring a total income of Rs. 1,264/-. In the assessment completed u/s 143(3) vide an order dated 13.03.2015, the total income of the assessee was determined by the A.O. at Rs. 2,45,26,264/- after making an addition of Rs. 2,45,25,000/- on account of share capital and share premium received by the assessee company during the year under consideration by treating the same as unexplained cash credits u/s 68.

3. Against the order passed by the A.O. u/s 143(3), an appeal was filed by the assessee before the Ld. CIT(A) and since there was no satisfactory compliance on the part of the assessee to the notices issued by him fixing the said appeal for hearing from time to time, the Ld. CIT(A) dismissed the appeal of the assessee vide his appellate order dated 14.12.2016 passed ex-parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. 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 in Ground No. 1 challenging the impugned order passed by the Ld. CIT(A) ex-parte, the learned counsel for the assessee has contended that Shri Kalyan Mukherjee, Chartered Accountant, who was authorised to represent the case of the assessee before the Ld. CIT(A), could not appear before the Ld. CIT(A) at the time of final hearing fixed on 07.12.2016 due to illness. Since this contention raised by the learned counsel for the assessee is duly supported by an affidavit of Shri Kalyan Mukherjee affirming the relevant facts on oath, we are satisfied that there was a sufficient cause for the non-appearance of the assessee before the Ld. CIT(A) when its appeal was fixed for hearing on 07.12.2016. Even the learned DR has not raised any objection in this regard. We, therefore, set aside the impugned order passed by the Ld. CIT(A) ex-parte and remit the matter back to him for disposing of the appeal of the assessee afresh on merit after giving one more opportunity to the assessee of being heard. As undertaken by the learned counsel for the

assessee at the time of hearing before the Tribunal, the assessee shall make due compliance before the Ld. CIT(A) and shall extend all the possible cooperation in order to enable the Ld. CIT(A) to dispose of the appeal afresh on merit expeditiously.

5. In the result, the appeal of the assessee is treated as allowed for statistical purpose.

Order Pronounced in the Open Court on 9th January, 2019.

Sd/-

(A.T. Varkey)
JUDICIAL MEMBER

Sd/-

(P.M. Jagtap)
Vice President

Dated: 09/01/2019

Biswajit, Sr. PS

Copy of order forwarded to:

1. Kasturi Power Products Pvt. Ltd., C/o D.J. Shah & Co, Kalyan Bhawan, 2, Elgin Road, Kolkata – 700 020.
2. ITO Ward 4(4), P-7, Chowringhee Square, Kolkata – 700 069.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / H.O.O.
ITAT, Kolkata