

आयकर अपीलिय अधीकरण, न्यायपीठ – “A(SMC)” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL “A(SMC)” BENCH: KOLKATA**  
 (समक्ष) श्री ऐ. टी. वर्की, न्यायीक सदस्य )  
 [Before Shri A. T. Varkey, JM]

**I.T.A. No. 1722/Kol/2018**  
**Assessment Year: 2014-15**

Smt. Nirmala Kumari Yadav (PAN: ABZPY4846Q)	Vs.	Income-tax Officer, Wd-48(4), Kolkata.
Appellant		Respondent

Date of Hearing	16.01.2019
Date of Pronouncement	16.01.2019
For the Appellant	Shri Miraj D. Shah, AR
For the Respondent	Shri Sanjoy Mukherjee, Addl. CIT

**ORDER**

**Per Shri A.T.Varkey, JM**

This appeal filed by the assessee against the order of Ld. CIT(A)-14, Kolkata dated 15.06.2018 for AY 2014-15.

2. The main grievance of the assessee in this appeal is against the action of Ld. CIT(A) in upholding by an ex parte order the addition on account of long term capital gain on sale of shares as unexplained cash credit u/s. 68 of the Income-tax Act, 1961 which, according to Ld. AR, was in violation of the principles of natural justice in having passed the ex parte order qua the assessee without affording adequate opportunity of being heard to the assessee. Hence, he urged before the bench to set aside the ex parte order of Ld. CIT(A) and remand the matter back to his file for fresh adjudication. Ld. DR has opposed this prayer of the assessee.

3. We have heard rival submissions and gone through the facts and circumstances of the case. We note that the Ld. CIT(A) passed a cryptic and ex parte order after issuing two notices fixing the date of hearing on 04.05.2018 and 21.05.2018. The Ld. AR before us

submitted that the second notice dated 21.05.2018 was not received by the assessee. In view of the above, we note that there is reasonable cause for the assessee not to appear before the Ld. CIT(A). Hence, we set aside the order of the Ld. CIT(A) and remand the matter back to the file of the Ld. CIT(A) to decide the appeal afresh after affording reasonable opportunity of being heard to the assessee in accordance to law.

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

Order is pronounced in the open court on 16 January, 2018.

Sd/-  
(Aby. T. Varkey)  
Judicial Member

Dated : 16 January, 2019

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Smt. Nirmala Kumari Yadav, 27, Sanatan Mistry Lane, Salkia, PS Golabari, Howrah-711106.
2. Respondent – ITO, Ward-48(4), Kolkata.
3. CIT(A)-14, Kolkata(sent through e-mail)
4. CIT, Kolkata.
5. DR, ITAT, Kolkata. (sent through e-mail)

/True Copy,

By order,  
Assistant Registrar