

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH, "SMC" AT KOLKATA

(समक्ष) श्री ऐ. टी. वर्की, न्यायीक सदस्य)

[Before Shri A. T. Varkey, JM]

I.T.A. No. 1652/Kol/2018**Assessment Year: 2013-14**

Bhola Nath Mitra [PAN: AEWPM 8844 E]	Vs.	ACIT, Circle – 47, Kolkata
Appellant		Respondent

Date of Hearing	20.02.2019
Date of Pronouncement	03.05.2019
For the Appellant	Shri B.K. Agarwal, FCA
For the Respondent	Shri Rabin Choudhury, ACIT, Sr. DR

ORDER

This is an appeal preferred by the Assessee against the order of the CIT(A)-14 dated 21.05.2018 for assessment year 2013-14.

2. At the outset, the learned AR drew our attention to the fact that this is an ex-parte order passed by the Ld. CIT(A) and since the learned AR's father fell sick, he could not appear before the Ld. CIT(A) and, therefore, for the non-appearance the part of the learned AR, the assessee should not be penalized.

3. We have heard both the parties and perused the records. I note that the Ld. CIT(A) had fixed the case on 09.01.2018, 29.01.2018 and 19.04.2018 and that the Ld. CIT(A) took note that none appeared before him, so he had dismissed the appeal without hearing the ld. AR of the assessee, who did not appear because his father was seriously ill. I note that the filing of appeal before the Ld. CIT(A) from the assessment order of AO is a statutory right vested with the assessee. And the Ld. CIT(A) after taking note that none appeared before him for three hearings was pleased to dismiss the appeal ex-parte, without going into merits of the appeal. I am of the opinion that the assessee should not be penalized for the non-appearance on the part of the learned AR and that too for a just cause when his non-attendance was due to taking care of his ailing father. Therefore, I am inclined to give an opportunity to the assessee to pursue the appeal on merits. The learned DR wanted us to take an undertaking from the learned AR that he would represent before the Ld. CIT(A) in

case the appeal is restored to the file of Ld. CIT(A), which the Id AR undertakes. Therefore, I 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 on merits after hearing the assessee. And the Id. AR of the assessee is directed to appear before the Ld. CIT(A) diligently without seeking adjournment otherwise than on just cause.

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

Order is pronounced in the open court on 3rd May, 2019

Sd/-

(Aby. T. Varkey)
Judicial Member

Dated : 3rd May, 2019
Biswajit (Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Bhola Nath Mitra, 182/4, Dharmtala Road, Howrah – 711 106.
- 2 Respondent – ACIT Circle 47, Kolkata.
3. The CIT(A),
4. CIT ,
5. DR,

/True Copy,

By order,

Assistant Registrar/H.O.O
ITAT, Kolkata

