

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH '(SMC)', KOLKATA  
[Before Shri P.M. Jagtap, Vice President, KZ]**

**I.T.A. No. 2626/Kol/2018**  
Assessment Year: 2014-15

**Smt. Sweta Dhandharia.....Appellant**  
**BH-58, Sector-II, Salt Lake City,**  
**Kolkata – 700 091.**  
**[PAN: AGQPA 6360 H]**

**ITO, WARD – 46(4) Kolkata.....Respondent**  
**3, Govt. Place (West), 2<sup>nd</sup> Floor,**  
**Kolkata – 700 001.**

**Appearances by:**

*Shri Subash Agarwal, Advocate appearing on behalf of the Assessee.*

*Smt. Ranu Biswas, Addl. CIT, Sr. DR appearing on behalf of the Revenue.*

Date of concluding the hearing : April 24, 2019

Date of pronouncing the order : May 01, 2019

**ORDER**

This appeal filed by the assessee is directed against the order of Ld. CIT(A) – 14, Kolkata dated 28.09.2018 passed ex-parte whereby he dismissed the appeal of the assessee.

2. The assessee in the present is an individual who filed her return of income for the year under consideration on 05.07.2014 declaring a total income of Rs. 6,58,350/-. The said return filed by the assessee was selected for scrutiny and notice u/s 143(2) was issued by the AO to the assessee. The said notice issued by the AO u/s 143(2) as well as the subsequent notices issued by him u/s 142(1) however remained uncomplished with by the assessee. The AO, therefore, was left no option but to complete the assessment ex-parte to the best of his judgement u/s 144 on the basis of material available on record. In the assessment so made vide an order dated 27.12.2016, he determined

the total income of the assessee at Rs. 16,49,306/- after making an addition of Rs. 8,81,840/- by treating the claim of the assessee for exemption on account of long term capital gain arising from the sale of shares as bogus and treating the entire sale proceeds of the shares as unexplained cash credit u/s 68.

3. Against the order passed by the AO u/s 144, an appeal was preferred 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 28.09.2018 passed ex-parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. I 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 this appeal challenging the ex-parte orders passed by the authorities below, the learned counsel for the assessee has filed an affidavit of the assessee explaining the reasons for non-compliance before the Ld. CIT(A) during the course of appellate proceedings as well as before the AO during the course of assessment proceedings as under:

- “1. That my matter relating to A.Y.: 2014-15 was pending for hearing before the Ld. CIT(A)-14, Kolkata.*
- 2. That the said matter was looked after by my husband, Sri Manish Raj Dhandharia, a Chartered accountant by profession.*

*3. That proper compliances could not be done before the Ld. CIT(A) since my husband was severally sick and bed ridden and was suffering from Pancreatitis and obstructive Jaundice.*

*4. That the assessment order was also passed u/s 144 due to non-compliance before the Ld. AO.*

*5. That the case was fixed for hearing on various dates and my authorised advocate Sri G.S. Kedia attended hearings but on some occasions effective hearings could not take due to the preoccupation of the Ld. AO.”*

Keeping in view the affirmations made by the assessee on oath in the affidavit as above, I am satisfied that there was a sufficient cause for the non-appearance of the assessee before the AO during the course of assessment proceedings as well as before the Ld. CIT(A) during the course of appellate proceedings. I, therefore, set aside the orders of the authorised below passed ex-parte and restore the matter to the file of the AO for deciding the same afresh after giving proper and sufficient opportunity of being heard to the assessee. As undertaken by the learned counsel for the assessee, the assessee shall make due compliance before the Assessing Officer and shall extend all the possible cooperation in order to enable the AO to complete the assessment afresh.

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

Order Pronounced in the Open Court on 1<sup>st</sup> May, 2019.

Sd/-  
(P.M. Jagtap)  
VICE PRESIDENT

**Dated: 01/05/2019**  
Biswajit, Sr. PS

Copy of order forwarded to:

1. Smt. Sweta Dhandharia, BH-58, Sector-II, Salt Lake City, Kolkata – 700 091.
2. ITO, WARD-46(4), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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