

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

**I.T.A. No. 2591/Kol/2018**  
Assessment Year: 2014-15

**Jay Kishan Lohia.....Appellant**  
**C/o. Chunnilal Laxminarayan,**  
**186, Jamunalal Bajaj Street,**  
**Kolkata - 700 007.**  
**[PAN: ADJPL 4425 C]**

**ITO, WARD - 47(3) Kolkata.....Respondent**  
**3, Government Place (West)**  
**Kolkata - 700 069.**

**Appearances by:**

*Shri Siddhath Agarwal, Advocate appearing on behalf of the Assessee.*  
*Shri Shankar Halder, JCIT, Sr. DR appearing on behalf of the Revenue.*

Date of concluding the hearing : April 11, 2019

Date of pronouncing the order : May 03, 2019

**ORDER**

This appeal filed by the assessee is directed against the order of Ld. CIT(A) - 14, Kolkata dated 26.09.2018 passed ex-parte dismissing the appeal of the assessee for non-prosecution.

2. The assessee in the present case is an individual who filed his return of income for the year under consideration on 21.01.2015 declaring a total income of Rs. 1,99,870/-. In the assessment completed u/s 143(3) vide an order dated 27.12.2016, the total income of the assessee was determined by the AO at Rs. 21,20,665/- after making an addition of Rs. 19,20,795/- by denying the claim of the assessee for exemption on account of long term capital gain by treating the same as bogus and adding the entire sale proceeds of the shares as unexplained cash credit u/s 68.

3. Against the order passed by the AO u/s 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) and since there was no 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 for non-prosecution vide his appellate order dated 26.09.2018 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 of the assessee challenging the impugned order passed by the Ld. CIT(A) ex-parte the learned counsel for the assessee has submitted that the appeal of the assessee was fixed for hearing by the learned counsel only on two occasions within a period of less than one month and since the assessee never received the notices of the said hearing, he could not comply with the same. He has contended that the Ld. CIT(A) however did not give any further opportunity of being heard to the assessee and dismissed the appeal of the assessee vide his impugned order passed ex-parte which is in clear violation of principles of natural justice.

5. Keeping in view the submission made by the learned counsel for the assessee, I find that the appeal filed by the assessee before the Ld. CIT(A) has been dismissed by him without giving proper and sufficient opportunity of being heard to the assessee and this position is not disputed even by the learned DR, I, 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 the assessee proper and sufficient opportunity of being heard. As undertaken by the learned counsel for the assessee, the assessee shall make due compliance before the Ld. CIT(A) and shall extend all the cooperation in order to enable the Ld. CIT(A) to dispose of the appeal expeditiously.

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

Order Pronounced in the Open Court on 3<sup>rd</sup> May, 2019.

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

**Dated: 03/05/2019**

Biswajit, Sr. PS

Copy of order forwarded to:

1. Jay Kishan Lohia, C/o. Chunnilal Laxminarayan, 186, Jamunalal Bajaj Street, Kolkata – 700 007.
2. ITO, WARD-47(3), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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