

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH (A), KOLKATA  
[Before Shri P.M. Jagtap, Vice President (KZ) & Shri S. S. Viswanethra Ravi, JM]**

**I.T.A. No. 242/Kol/2019  
Assessment Year: 2014-15**

***M/s. Highview Management Pvt. Ltd.,.....Appellant  
2<sup>nd</sup> Floor, 5, Fancy Lane,  
Kolkata - 700 001.  
[PAN: AACCH 8763 JJ]***

***ITO, Ward - 5(4) Kolkata.....Respondent  
P-7, Chowringhee Square,  
Kolkata - 700 069.***

**Appearances by:**

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

Date of concluding the hearing : April 12, 2019

Date of pronouncing the order : May 03, 2019

**ORDER**

**Per P.M. Jagtap, Vice President (KZ)**

This appeal filed by the assessee is directed against the order of Ld. CIT(A) - 14, Kolkata dated 11.12.2018 passed ex-parte whereby he dismissed 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 on 29.09.2014 declaring a total income of Rs. 85,540/-. The said return was selected for scrutiny and a notice u/s 143(2) was issued by the AO. The said notice issued u/s 143(2) as well as the subsequent notices issued by the AO u/s 142(1) however remained uncomplied with by the assessee. The AO, therefore, proceeded to complete the assessment to the best of his judgement u/s 144 and in the assessment so made vide an order dated 22.12.2016, addition of Rs. 1,80,00,000/- was made by

the AO to the total income of the assessee on account of investment made by the assessee in unlisted shares by treating the same as unexplained.

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 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 11.12.2018 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 the appeal of the assessee challenging the impugned order passed by the Ld. CIT(A), the learned counsel for the assessee has submitted that the notices of hearing stated to be issued by the Ld. CIT(A) were never received by the assessee and the assessee, therefore, could not comply with the same. He has also submitted that proper and sufficient opportunity of being heard was not afforded even by the AO to the assessee during the course of assessment proceedings and urged that the matter may be sent back to the AO for giving the assessee such an opportunity. Although, the learned DR has not raised any objection for sending the matter back to the AO for giving one more opportunity to the assessee, he has

contended that some cost should be imposed on the assessee for the non-compliance before the authorities below.

5. Keeping in view the submissions made by both the sides and having regard to the facts of the case, we consider it fair and proper and in the interest of justice to send the matter back to the AO for giving one more opportunity to the assessee, subject however to payment of cost. We accordingly impose a cost of Rs. 5,000/- on the assessee and subject to the payment of the said cost by the assessee to the department, the impugned order of the Ld. CIT(A) passed ex-parte is set aside and the matter is restored to the file of the AO for deciding the same afresh on merit 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 AO and shall extend all the cooperation in order to enable the AO to complete the assessment expeditiously.

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

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

Sd/-  
(S. S. Viswanethra Ravi)  
JUDICIAL MEMBER

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

**Dated: 03/05/2019**  
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Highview Management Pvt. Ltd., 2<sup>nd</sup> Floor, Kolkata – 700 001.
2. ITO, Ward 5(4), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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