

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

I.T.A. No. 570/Kol/2019

Assessment Year: 2015-16

***Tulshihata CSC and FS Beer 50 UP FL and 25 UP FL Rum ShopAppellant
M/s. Tulshihata C.S. Shop, Vill. & P.O. Tulshihata,
P.S. Harischandrapur, Malda Sadar,
Malda - 732 140
[PAN: AAHFT 2125 Q]***

Vs

***ITO, Ward-3(2)Malda.....Respondent
Netaji Commercial Market, 1st Floor,
Malda - 735 101.***

Appearances by:

Shri Brijesh Kumar Singh, Advocate appearing on behalf of the Assessee.

Shri Jayant Khanra, JCIT, Sr. DR appearing on behalf of the Revenue.

Date of concluding the hearing : September 17, 2019

Date of pronouncing the order : September 17, 2019

ORDER

This appeal filed by the assessee is directed against the order of Ld. CIT(A) – Jalpaiguri dated 18.01.2019 passed ex-parte whereby he dismissed the appeal of the assessee.

2. The assessee in the present case is a partnership firm which is engaged in the business of running a liquor shop. The return of income for the year under consideration was filed by it on 03.03.2016 declaring a total income of Rs. 5,91,900/-. In the assessment completed u/s 143(3) vide an order dated 21.12.2017, the total income of the assessee was determined by the AO at Rs. 20,78,689/- after making the additions of Rs. 14,47,237/- and Rs. 39,552/- on account of disallowance of expenses claimed on purchase of empty bottles and disallowance out of various expenses respectively.

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 vide his appellate order dated 18.01.2019 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 by the assessee in this appeal challenging the impugned order passed by the Ld. CIT(A) ex-parte, the learned counsel for the assessee has submitted that none of the notices issued by the Ld. CIT(A) fixing the appeal of the assessee for hearing was received by the assessee and such non-receipt of notices resulted into non-compliance of the assessee before the Ld. CIT(A). Keeping in view this submissions made by the learned counsel for the assessee, I am satisfied that there was a sufficient cause for the non-appearance of the assessee when its appeal was called for hearing before the Ld. CIT(A). Even the learned DR has not raised any objection in this regard. 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 in accordance with law 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 Ld. CIT(A) and shall extend all the possible cooperation in order to enable the Ld. CIT(A) to dispose of the appeal expeditiously.

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

Order Pronounced in the Open Court on 17th September, 2019.

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

Dated: 17/09/2019
Biswajit, Sr. PS

Copy of order forwarded to:

1. Tulshihata CSC and FS Beer 50 UP FL and 25 UP FL Rum Shop, M/s. Tulshihata C.S. Shop, Vill & PO. Tulshihata, Harischandrapur, malda Sadar, Malda – 732 140.
2. ITO, Ward – 3(2), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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