

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

I.T.A. No. 828/Kol/2019
Assessment Year: 2015-16

Arti Bhartia.....Appellant
5/1A, Hungerford Street, 3rd Floor,
Shakespeare Sarani,
Mumbai - 400 017.
[PAN: AFQPB 0152 D]

Vs

ITO, Ward-32(3)Kolkata.....Respondent
10B, Middleton Row,
Kolkata - 700 071.

Appearances by:

Shri Ravi Tulsian, FCA 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) - 9, Kolkata dated 28.03.2019 passed ex-parte dismissing the appeal of the assessee non-prosecution.

2. The assessee in the present case is an individual who filed her return of income for the year under consideration on 31.08.2015 declaring a total income of Rs. 5,17,780/-. In the assessment completed u/s 143(3) vide an order dated 15.12.2017, the total income of the assessee was determined by the AO at Rs. 22,37,930/- after disallowing the assessee's claim for exemption of Long Term Capital Gain arising from the sale of shares of CCL International Ltd. and treating the entire sale proceeds of such sale 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 vide his appellate order dated 28.03.2019 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. The learned counsel for the assessee has submitted that even though none appeared on behalf of the assessee for hearing before the Ld. CIT(A) on the given dates, a detailed written submission was filed in support of the assessee's case on the issue raised in the appeal. He has also placed on record a copy of the said written submission filed before the Ld. CIT(A) and submitted that the appeal of the assessee has been dismissed by the Ld. CIT(A) vide his impugned order passed ex-parte without considering the said submission. The learned DR, on the other hand, has submitted that if the written submission filed by the assessee as claimed by the learned counsel for the assessee was not considered by the Ld. CIT(A), the matter may be sent back to the Ld. CIT(A) for deciding the same afresh after taking into consideration the said submission. Keeping in view all the facts of the case, I find merit in this contention raised by the learned DR. The impugned order of the Ld. CIT(A) is accordingly set aside and the matter is remitted back to him for disposing the appeal of the assessee afresh on merit in accordance with law after considering the written submission filed by the assessee and after giving the assessee one more opportunity of being heard.

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. Arti Bhartia, 5/1A, Hungerford Street, 3rd Floor, Shakespeare Sarani, Kolkata – 700 017.
2. ITO, Ward – 32(3), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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