

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A(SMC)' BENCH, KOLKATA**

Before Shri P.M. Jagtap, Vice-President

**I.T.A. No. 1729/KOL/2019
Assessment Year: 2015-2016**

Achinta Khan,.....Appellant
Sodepur Road, Madhyamgram,
New Radhakata, Kolkata-700129
[PAN: ALKPK8399Q]

-Vs.-

Income Tax Officer,.....Respondent
Ward-50(1), Kolkata,
Uttarapan Complex, Civic Centre,
Ultadanga, Scheme-VIIM,
Kolkata-700054

Appearances by:

N o n e, for the Appellant
Shri Jayanta Khanra, JCIT, Sr. D.R., for the Respondent

Date of concluding the hearing : December 02, 2019
Date of pronouncing the order : December 31, 2019

O R D E R

This appeal filed by the assessee is directed against the order of ld. Commissioner of Income Tax (Appeals)-15, Kolkata dated 31.05.2019 passed ex-parte, whereby he dismissed 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 26.03.2016 declaring total income of Rs.2,56,490/-. In the assessment completed under section 143(3) vide an order dated 06.11.2017, the total income of the assessee was determined by the Assessing Officer at Rs.7,26,452/- after making the additions of Rs.5,160/- and Rs.4,64,802/- on account of transactions relating to derivatives.

3. Against the order passed by the Assessing Officer under section 143(3), an appeal was preferred by the assessee before the Id. CIT(Appeals) 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 Id. CIT(Appeals) dismissed the appeal of the assessee for non-prosecution vide his appellate order dated 31.05.2019 passed ex-parte. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. At the time of hearing of this appeal fixed today, none has appeared on behalf of the assessee. The Id. D.R., however, has fairly submitted that the appeal of the assessee filed before the Id. CIT(Appeals) having been not disposed of by the Id. CIT(Appeals) on merit, the matter may be remitted back to the Id. CIT(Appeals) for deciding the same on merit after giving the assessee one more opportunity of being heard. Moreover, the Id. CIT(Appeals) as per the provisions of sub-section (6) of section 250 was required to dispose of the appeal of the assessee vide an order in writing stating the points for determination, the decision thereon and the reasons for the decision. It is observed that the impugned order passed by the Id. CIT(Appeals) does not comply with these requirements. I, therefore, consider it fair and proper and in the interest of justice to set aside the impugned order passed by the Id. CIT(Appeals) 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 one more opportunity of being heard to the assessee.

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

Order pronounced in the open Court on December 31, 2019.

**Sd/-
(P.M. Jagtap)
Vice-President)**

Kolkata, the 31st day of December, 2019

- Copies to :
- (1) **Achinta Khan,
Sodepur Road, Madhyamgram,
New Radhakata, Kolkata-700129**
 - (2) **Income Tax Officer,
Ward-50(1), Kolkata,
Uttarapan Complex, Civic Centre,
Ultadanga, Scheme-VIIM, Kolkata-700054**
 - (3) *Commissioner of Income Tax (Appeals)-15, Kolkata;*
 - (4) *Commissioner of Income Tax- , Kolkata*
 - (5) *The Departmental Representative*
 - (6) *Guard File*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.