

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

**Before Shri P.M. Jagtap, Vice-President**

**I.T.A. No. 1789/KOL/2019  
Assessment Year: 2011-2012**

**Bikash Paul,.....Appellant**  
**Prop. of Paradise Electronics & Paradise Gold,**  
**R.C. Nandy Path, B.T. Road,**  
**Khardah, Kolkata-700117**  
**[PAN: AFVPP9229G]**

**-Vs.-**

**Income Tax Officer,.....Respondent**  
**Ward-51(3), Kolkata,**  
**DS-2& 3, Uttarapan Building,**  
**Maniktalla Civic Centre, Ultadanga,**  
**Kolkata-700054**

**Appearances by:**

*Shri Manish Tiwari, FCA, for the Appellant*  
*Shri Jayanta Khanra, JCIT, Sr. D.R., for the Respondent*

Date of concluding the hearing : December 16, 2019

Date of pronouncing the order : January 08, 2020

**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 11.01.2017 passed ex-parte, whereby he dismissed the appeal of the assessee.

2. At the outset, it is noted that there is a delay of 869 days on the part of the assessee in filing this appeal filed before the Tribunal. In this regard, the assessee has moved an application seeking condonation of the said delay on the following grounds:-

*“(a) That I am a very senior citizen of 80 years of age and suffering from various age related ailments like Kidney related problems, High Blood Sugar and High BP. My condition is not stable and I frequently admitted to Hospital in past.*

*“(b) That I visit Doctors & Nursing Homes regularly during the last two and half years and also admitted to Nursing Homes / Hospital several times for treatment of various ailments.*

*(c) That because of regular health problems I am not in a position to do day-to-day work and attend office on regular basis due to which appeal was not filed on time.*

*(d) That after getting some relief from various ailments I discussed the matter with legal expert who advised filing of appeal to Hon'ble ITAT against the said adverse order of Ld. CIT(A).*

*(e) That the appeal documents were drafted, finalized, signed and then filed before Hon'ble ITAT on 29.07.2019".*

Keeping in view the reasons given by the assessee as above, which are duly supported by an affidavit filed by the assessee affirming the relevant facts on oath, I am satisfied that there was a sufficient cause for the delay of 869 days on the part of the assessee in filing this appeal before the Tribunal. Even the ld. D.R. has not raised any objection in this regard. I, therefore, condone the said delay and proceed to dispose of this appeal of the assessee on merit.

3. The assessee in the present case is an individual, who is engaged in the business of Electronics Goods and Gold. The return of income for the year under consideration was filed by him declaring total income of Rs.8,83,000/-. As per the information received by the Assessing Officer, the assessee had purchased a shop at 58/48, B.T. Road, Ward No. 7, Khardah, 24-Parganas (North) at a consideration of Rs.29,97,600/- on 08.06.2010 in cash. Since this investment made by the assessee was not reflected in the Balance-sheet filed by the assessee with his return of income, the assessment was reopened by the Assessing Officer and a notice under section 148 was issued by him on 02.01.2014 after recording the reasons. Although there was no immediate response from the assessee's side to the said notice, a letter was finally filed by the assessee on 03.12.2014 requesting that the return filed originally under section 139(1) may be treated as the return filed in response to the notice under section 148. Thereafter the assessment was completed by the Assessing Officer under section 147/143(3) of the Act vide an order

dated 26.12.2014 determining the total income of the assessee at Rs.33,85,590/- after making an addition of Rs.25,02,508/- to the total income of the assessee on account of unexplained investment allegedly made by the assessee and the unexplained expenditure incurred on Stamp Duty.

4. Against the order passed by the Assessing Officer under section 147/143(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 vide his appellate order dated 11.01.2017 passed ex-parte. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

5. I have heard the arguments of both the sides and also perused the relevant material available on record. As submitted by the Id. Counsel for the assessee, there was no compliance on the part of the assessee to the notices issued by the Id. CIT(Appeals) fixing the appeal of the assessee for hearing from time to time due to the same reasons as advanced by the assessee while explaining the delay on the part of the assessee in filing this appeal before the Tribunal. Since the said reasons are duly supported by an affidavit filed by the assessee, I am of the view that there was a sufficient cause for the non-appearance of the assessee when his appeal was called for hearings before the Id. CIT(Appeals). I, therefore, 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. As undertaken by the Id. Counsel for the assessee, the assessee shall make due compliance before the Id. CIT(Appeals) and shall extend all the possible cooperation in order to enable the Id. CIT(Appeals) to dispose of the appeal afresh expeditiously.

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

Order pronounced in the open Court on January 08, 2020.

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

**Kolkata, the 8<sup>th</sup> day of January, 2020**

- Copies to :
- (1) **Shri Bikash Paul,  
Prop. of Paradise Electronics & Paradise Gold,  
R.C. Nandy Path, B.T. Road,  
Khardah, Kolkata-700117**
  - (2) **Income Tax Officer,  
Ward-51(3), Kolkata,  
DS-2& 3, Uttarapan Building,  
Maniktalla Civic Centre, Ultadanga, 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.**