

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

**I.T.A. No. 1571/Kol/2019**  
Assessment Year: 2009-10

**Shri Ranajit Chaudhuri.....Appellant**  
**75, Hem Chandra Naskar Road, 2<sup>nd</sup> Floor,**  
**Kolkata - 700 010.**  
**[PAN: ACIPC 6043 M]**

**Vs**

**ACIT, CIR-45, Kolkata.....Respondent**  
**3, Govt. Place (West),**  
**Kolkata - 700 001.**

**Appearances by:**

*Shri Soumitra Choudhury, Advocate appearing on behalf of the Assessee.*

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

Date of concluding the hearing : January 15, 2020

Date of pronouncing the order : February 26, 2020

**ORDER**

This appeal filed by the assessee is directed against the order of Ld. CIT(A) - 13, Kolkata dated 22.01.2019 passed ex-parte whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is an individual. In the assessment originally completed u/s 143(3) vide an order dated 07.12.2011, the total income of the assessee was determined by the AO at Rs. 26,53,050/-. The said assessment was subsequently reopened by the AO and in the assessment completed u/s 144/147 of the Act vide an order dated 16.03.2015, the total income of the assessee was determined by the AO at Rs. 30,49,050/- after making an addition of Rs. 3,96,000/- by way of disallowance of labour charges u/s 40(a)(ia) of the Act.

3. Against the order passed by the AO u/s 144/147, an appeal was preferred by the assessee before the Ld. CIT(A) challenging the

validity of the said assessment made by the AO as well as disputing the addition made therein by way of disallowance u/s 40(a)(ia). During the course of appellate proceedings before the Ld. CIT(A), there was no satisfactory compliance on the part of the assessee to the notices issued by the Ld. CIT(A) fixing the said appeal of the assessee for hearing from time to time. The Ld. CIT(A), therefore, dismissed the appeal of the assessee for non-prosecution vide his appellate order dated 22.01.2019 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 of hearings stated to be issued by the Ld. CIT(A) was received by the assessee and such non-receipt of notices resulted into non-appearance of the assessee, when his appeal was called for hearings before the Ld. CIT(A). Keeping in view this submission made by the learned counsel for the assessee, I am satisfied that there was a sufficient cause for the non-compliance of the assessee during the course of appellate proceedings before the Ld. CIT(A). Even the ld. DR has not raised any objection in this regard. Moreover, as per the provisions of sub-section (6) of section 250, the Ld. CIT(A) 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 Ld.

CIT(A) does not comply with these requirements. 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 26<sup>th</sup> February, 2020.

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

**Dated: 26/02/2020**  
Biswajit, Sr. PS

Copy of order forwarded to:

1. Shri Ranajit Chaudhuri, 75, Hem Chandrda Naskar Road, 2<sup>nd</sup> Floor, Kolkata – 700 010.
2. ACIT, CIR-45, Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

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