

IN THE INCOME TAX APPELLATE TRIBUNAL “B(SMC” KOLKATA
[Before Shri A. T. Varkey, JM]

I.TA No. 2573/Kol/2019
A.Y 2015-16

Ram Saran Pal PAN: AJGPP6353C	Vs.	I.T.O. Ward 49(4), Kolkata
Appellant		Respondent

Date of Hearing	06-02-2020
Date of Pronouncement	18.03.2020

For the Appellant	Shri Harsh, ld.AR
For the Respondent	Shri Jayanta Khanna, JCIT, ld.DR

ORDER

This appeal is preferred by the assessee against the order of Ld. CIT (Appeals) , 15, Kolkata both dated 04-10-2019 for the assessment years 2015-16.

2. At the outset itself, it is noticed from perusal of impugned order that the ld. CIT(A) has passed an ex parte order without going into the merits of the case. From a perusal of the impugned order, it is discerned that the ld. CIT(A) had fixed the appeal thrice on different dates i. e on 01.08.2019, 27.08.2019 and 03.10.2019. The ld. CIT(A) has noted that even though the case was posted for hearing on various dates neither any one appeared on behalf of the assessee nor submitted any written submission to substantiate their claim(s) made in the grounds of appeal. So the ld. CIT(A) presumed that the assessee is not interested to pursue the appeal, and, therefore the ld. CIT(A) passed ex parte order against the assessee. I note that the ld. CIT(A) was pleased to dismiss the appeal of assessee without going into the merits of the appeal preferred by the assessee. I am of the opinion that the first appellate authority has to decide the appeal on merits since it is the valuable statutory right vested in the assessee to file before the ld. CIT(A) an appeal when it is aggrieved by the action of AO. I find that the ld. CIT(A) has fixed the case thrice for hearing, however, he has

not mentioned in the impugned order as to whether the notice(s) of hearing has been served upon the assessee. Before me the assessee has assailed the impugned order of the Id. CIT(A) to dismiss the appeal without hearing him and without going into the merits of the appeal raised by the assessee. In such scenario, I am of the opinion that his action is in violation of the principles of natural justice. Therefore, I am of the considered opinion that assessee ought to have been heard before passing the impugned order. Therefore, I set aside the impugned order of the Id. CIT(A) and remand the matter back to him to adjudicate the issue(s) involved in the appeal afresh on merits. The assessee/Id.AR of assessee is directed to diligently to appear before the Id. CIT(A) and in case, if there is any changes in assessee's address, to furnish the same before the Id. CIT(A) and to appear promptly before the Id. CIT(A) during the appellate proceedings without fail. The Id. CIT(A) shall decide the case afresh in accordance with law by passing a speaking order and after giving the assessee adequate opportunity of hearing.

3. In the result, the appeal of assessee is allowed for statistical purposes.

Order Pronounced in the Open Court on 18 -03-2020

Sd/-
A.T. Varkey
Judicial Member

Dated 18 March-2020

*PP(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant/Assessee: Ram Saran Pal, 1 Motisil Street, Kolkata-13, Pin 700 013.W.B.
2. Respondent/Revenue: The ITO, Ward 59(4), Manicktala, Civil Centre, Uttarapaan complex, DS-IV, Kolkata.
3. CIT,
4. CIT(A), Kolkata.
5. DR, Kolkata Benches, Kolkata

**PP/SPS True Copy By By Order Assistant Registrar
ITAT Kolkata