

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'D' BENCH, KOLKATA  
[Virtual Court Hearing]**

**Before Shri P.M. Jagtap, Vice-President  
& Shri Satbeer Singh Godara, Judicial Member**

**I.T.A. No. 239/KOL/2020  
Assessment Year: 2013-2014**

**Abhiyan Dealcomm (P) Limited,.....Appellant**  
**8/1E, Diamond Harbour Road, 2<sup>nd</sup> Floor,**  
**Kolkata-700027**  
**[PAN: AAECA6990L]**

**-Vs.-**

**Income Tax Officer,.....Respondent**  
**Ward-11(1), Kolkata,**  
**Aayakar Bhawan,**  
**P-7, Chowringhee Square,**  
**Kolkata-700069**

**Appearances by:**

*Shri Manish Tiwari, FCA, for the Appellant*  
*Smt. Ranu Biswas, Addl. CIT, D.R., for the Respondent*

Date of concluding the hearing : June 10, 2020  
Date of pronouncing the order : June 10, 2020

**O R D E R**

**Per Shri P.M. Jagtap, Vice-President:-**

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-4, Kolkata dated 19.12.2019 passed ex-parte, whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is a Company, which is engaged in trading business. The return of income for the year under consideration was filed by it on 30.09.2013 declaring total income of Rs.1,15,990/-. In the assessment completed under section 143(3) vide an order dated 16.03.2016, the total income of the assessee was determined by the Assessing Officer at Rs.34,32,555/- after making the addition of

Rs.30,18,959/- on account of undisclosed investment and Rs.2,97,609/- on account of undisclosed profit from unaccounted purchases.

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 19.12.2019 passed ex-parte. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. In support of the preliminary issued raised by the assessee in this appeal challenging the impugned order passed by the Id. CIT(Appeals) ex-parte dismissing the appeal of the assessee for non-prosecution, the Id. Counsel for the assessee has submitted that the notices stated to be issued by the Id. CIT(Appeals) fixing the appeal of the assessee for hearings on 09.12.2019 and 17.12.2019 were never received by the assessee and such non-receipt of the notices resulted into the non-appearance of the assessee before the Id. CIT(Appeals) when its appeal was called for hearings on 09.12.2019 and 17.12.2019. Keeping in view this submission made by the assessee, we are satisfied that there was a sufficient cause for the non-compliance on the part of the assessee before the Id. CIT(Appeals) and even the Id. D.R. has not raised any objection in this regard. 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. We, 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 dismissing the appeal of the assessee for non-prosecution 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 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.

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

Order pronounced in the open Court on June 10, 2020.

**Sd/-  
(Satbeer Singh Godara)  
Judicial Member**

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

***Kolkata, the 10<sup>th</sup> day of June, 2020***

- Copies to :*
- (1) ***Abhiyan Dealcomm (P) Limited,  
8/1E, Diamond Harbour Road, 2<sup>nd</sup> Floor,  
Kolkata-700027***
  - (2) ***Income Tax Officer,  
Ward-11(1), Kolkata,  
Aayakar Bhawan,  
P-7, Chowringhee Square, Kolkata-700069***
  - (3) *Commissioner of Income Tax (Appeals)-4, 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.***