

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'A(SMC)' BENCH, KOLKATA  
[Virtual Court Hearing]**

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

**I.T.A. No. 2532/KOL/2019  
Assessment Year: 2014-2015**

***Kailash Gupta (HUF),.....Appellant***  
***432, G.T. Road (North),***  
***Howrah-711001***  
***[PAN: AAJHK0951R]***

**-Vs.-**

***Income Tax Officer,.....Respondent***  
***Ward-49(2), Kolkata,***  
***3, Government Place (West),***  
***Kolkata-700001***

**Appearances by:**

*None, for the Appellant*

*Shri Jayanta Khanra, JCIT, Sr. D.R., for the Respondent*

Date of concluding the hearing : June 18, 2020

Date of pronouncing the order : June 18, 2020

**O R D E R**

This appeal filed by the assessee is directed against the order of ld. Commissioner of Income Tax (Appeals)-14, Kolkata dated 26.09.2019 passed ex-parte, whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is an HUF, which filed its return of income for the year under consideration on 29.12.2014 declaring total income of Rs.3,10,550/-. In the assessment completed under section 143(3) vide an order dated 07.12.2016, the total income of the assessee was determined by the Assessing Officer at Rs.18,01,272/- after making the addition of Rs.14,90,722/- to the total income of the assessee under

section 68 by treating the receipts from the sale of shares as unexplained cash credit.

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) challenging the addition of Rs.14,90,722/- made by the Assessing Officer under section 68 and since there was no 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 26.09.2018 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 before the Tribunal fixed today, none has appeared on behalf of the assessee. It is, however, noted from the perusal of the impugned order passed by the Id. CIT(Appeals) that the appeal of the assessee was fixed for hearing only twice and, therefore, it cannot be said that the assessee was given proper and sufficient opportunity of being heard by the Id. CIT(Appeals) before dismissing the appeal of the assessee for non-prosecution vide his impugned order passed ex-parte. Even the Id. D.R. has not been able to dispute this position. 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 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.

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

Order pronounced in the open Court on June 18, 2020.

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

***Kolkata, the 18<sup>th</sup> day of June, 2020***

- Copies to :*
- (1) Kailash Gupta (HUF),  
432, G.T. Road (North), Howrah-711001**
  - (2) Income Tax Officer,  
Ward-49(2), Kolkata,  
3, Government Place (West), Kolkata-700001**
  - (3) Commissioner of Income Tax (Appeals)-14, 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.***