

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

**Before Shri P.M. Jagtap, Vice-President
& Shri A.T. Varkey, Judicial Member**

**I.T.A. Nos. 526 & 527/KOL/2019
Assessment Years: 2011-2012 & 2013-2014**

Shri Sanjay Saraf,.....Appellant
5, Kabir Road,
Kolkata-700026
[PAN: ALIPS9597B]

-Vs.-

Assistant Commissioner of Income Tax,.....Respondent
Circle-44/45, Kolkata,
3, Government Place,
Kolkata-700001

Appearances by:

Shri S.M. Surana, Advocate, for the Appellant
Shri Supriyo Pal, Addl. CIT, D.R., for the Respondent

Date of concluding the hearing : June 29, 2020
Date of pronouncing the order : June 29, 2020

O R D E R

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

These two appeals filed by the assessee are directed against two separate orders of ld. Commissioner of Income Tax (Appeals)-13, Kolkata, both dated 31.01.2019 passed ex-parte, whereby he dismissed the appeals of the assessee for assessment years 2011-12 and 2013-14 for non-prosecution.

2. The assessee in the present case is an individual, who filed his return of income for the year under consideration i.e. A.Y. 2011-12 originally on 19.09.2011 declaring total income of Rs.26,27,701/-. The said return was initially processed by the Assessing Officer under section 143(1) of the Income Tax Act, 1961. The assessment was, however, reopened by him and in the assessment completed under section

143(3)/147 of the Act vide an order dated 19.03.2015, the total income of the assessee was determined by the Assessing Officer at Rs.49,37,801/- after making certain additions. The assessment for assessment year 2013-14 was also completed by the Assessing Officer under section 143(3) of the Act vide an order dated 26.02.2016 determining the total income of the assessee at Rs.50,71,529/- as against the returned income of Rs.43,52,490/- after making certain additions.

3. Against the order passed by the Assessing Officer under section 143(3)/147 of the Act for A.Y. 2011-12 as well as against the assessment made under section 143(3) for A.Y. 2013-14, appeals were 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 appeals for hearing from time to time, the Id. CIT(Appeals) dismissed the appeals of the assessee for non-prosecution vide his appellate orders both dated 31.12.2019 passed ex-parte. Aggrieved by the orders of the Id. CIT(Appeals), the assessee has preferred these appeals 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 common issue raised by the assessee in both these appeals challenging the impugned orders passed by the Id. CIT(Appeals) ex-parte dismissing the appeals of the assessee for non-prosecution, the Id. Counsel for the assessee has submitted that none of the notices stated to be issued by the Id. CIT(Appeals) fixing the appeals of the assessee for hearing was ever received by the assessee and such non-receipt of notices resulted into non-compliance on the part of the assessee. A perusal of the impugned orders of the Id. CIT(Appeals) also shows that there is nothing to indicate that any of the notices of hearing sent by him was actually served on the assessee. We are, therefore, satisfied that there was a sufficient cause for the non-appearance of the assessee when his appeals were fixed for

hearing before the ld. CIT(Appeals) and even the ld. D.R. has not raised any objection in this regard. Moreover, the ld. CIT(Appeals) as per the provisions of sub-section (6) of section 250 was required to dispose of the appeals 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 orders passed by the ld. CIT(Appeals) do not comply with these requirements. We, therefore, consider it fair and proper and in the interest of justice to set aside the impugned orders passed by the ld. CIT(Appeals) ex-parte dismissing the appeals of the assessee for non-prosecution and remit the matter back to him for disposing of the appeals 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 ld. Counsel for the assessee, the assessee shall make due compliance before the ld. CIT(Appeals) and shall extend all the possible cooperation in order to enable the ld. CIT(Appeals) to dispose of the appeals afresh expeditiously.

5. In the result, both the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the open Court on June 29, 2020.

**Sd/-
(A.T. Varkey)
Judicial Member**

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

Kolkata, the 29th day of June, 2020

*Copies to : (1) Shri Sanjay Saraf,
5, Kabir Road, Kolkata-700026*

*(2) Assistant Commissioner of Income Tax,
Circle-44/45, Kolkata, 3, Government Place,
Kolkata-700001*

(3) Commissioner of Income Tax (Appeals)-13, 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.