

**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. No. 211/KOL/2020  
Assessment Year: 2014-2015**

**Sri Raj Kumar Ghosh,.....Appellant**  
**59, Sarulfa Colony, Barua, Beldanga,**  
**Dist. Murshidabad-742189, West Bengal**  
**[PAN: ALKPG6172A]**

**-Vs.-**

**Income Tax Officer,.....Respondent**  
**Ward-42(3), Murshidabad,**  
**39, R.N. Tagore Road, Berhampore,**  
**Murshidabad-742101**

**Appearances by:**

*Shri S.M. Surana, Advocate, for the Appellant*  
*Shri Vijay Shankar, CIT, D.R., for the Respondent*

Date of concluding the hearing : July 02, 2020  
Date of pronouncing the order : July 02, 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 ld. Principal Commissioner of Income Tax-14, Kolkata dated 28.02.2019 passed under section 263 of the Income Tax Act, 1961.

2. The assessee in the present case is an individual, who filed his return of income for the year under consideration on 28.08.2015 declaring total income of Rs.2,46,630/-. During the course of assessment proceedings, it was noticed by the Assessing Officer that the total cash deposits made by the assessee in his Bank account were more than the turnover of the assessee's business. Since the assessee could not offer any explanation as regards the excess cash deposits of Rs.26,26,335/- found to be made in his Bank account inspite of sufficient opportunity afforded

in this regard, the Assessing Officer treated the same as undisclosed turnover of the assessee's business and an addition of Rs.2,10,106/- was made by him to the total income of the assessee on account of 8% profit of such undisclosed turnover in the assessment completed under section 143(3) vide an order dated 09.12.2016.

3. The record of the assessment completed by the Assessing Officer under section 143(3) came to be examined by the concerned Id. Principal CIT. On such examination, he was of the view that the entire excess cash deposits of Rs.26,26,335/- found to be made in the bank account of the assessee represented the undisclosed income of the assessee and in the absence of any explanation offered by the assessee in this regard, the Assessing Officer was not correct to treat the same as undisclosed turnover of the assessee's business and add only the net profit calculated at 8% of such undisclosed turnover to the total income of the assessee. He accordingly treated the order passed by the Assessing Officer under section 143(3) to be erroneous as well as prejudicial to the interest of the Revenue and issued a notice under section 263 to the assessee to show-cause as to why the entire amount of excess cash deposits found to be made in his Bank account should not be treated as his income. The said notice, however, was returned back by the Postal Authorities un-served with the remark "not known". Even a notice served by the Id. Pr. CIT through Inspector by affixture failed to invoke any response from the assessee. The Id. Principal CIT, therefore, proceeded to pass an order under section 263 on 28.02.2019 ex-parte setting aside the assessment made by the Assessing Officer under section 143(3) with a direction to the Assessing Officer to make the assessment afresh on the issue pointed out by him after making the necessary enquiries and verification. Aggrieved by the order of the Id. Principal CIT passed under section 263, 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. The Id. Counsel for the assessee has submitted that there is no change in the address of the assessee and it is not understandable as to how the notices stated to be issued by the Id. Principal CIT under section 263 to the assessee by post as well as by affixture could not be received by the assessee. He has submitted that since no notice issued by the Id. Principal CIT was received by the assessee, the assessee could not comply with the same and urged that one more opportunity may be given to the assessee to put forth his case by sending the matter back to the Id. Principal CIT. Keeping in view the submission made by the Id. Counsel for the assessee, we are of the view that it would be fair and proper and in the interest of justice that one more opportunity may be given to the assessee of being heard before the Id. Principal CIT. The impugned order of the Id. Principal CIT passed under section 263 ex-parte is accordingly set aside and the matter is remitted back to him for deciding the same afresh after giving one more 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. Principal CIT and shall extend all the possible cooperation in order to enable the Id. Principal CIT 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 July 02, 2020.

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

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

***Kolkata, the 2<sup>nd</sup> day of July, 2020***

**Copies to : (1) Sri Raj Kumar Ghosh,  
59, Sarulfa Colony, Barua, Beldanga,  
Dist. Murshidabad-742189, West Bengal**

(2) **Income Tax Officer,  
Ward-42(3), Murshidabad,  
39, R.N. Tagore Road, Berhampore,  
Murshidabad-742101**

(3) *Pr. Commissioner of Income Tax-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.**