

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

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

**I.T.A. No. 143/KOL/2020
Assessment Year: 2015-2016**

Pradip Dey,.....Appellant
Kalupukur Main Road, Chandannagore,
Hooghly-712136
[PAN: ADAPD0203F]

-Vs.-

Assistant Commissioner of Income Tax,.....Respondent
Circle-23(1), Hooghly,
Aayakar Bhawan, G.T. Road, Chinsurah,
Hooghly-712101

Appearances by:

Shri Soumitra Choudhury, Advocate, for the Appellant
Shri Dhrubajyoti Roy, JCIT, Sr. D.R., for the Respondent

Date of concluding the hearing : August 03, 2020
Date of pronouncing the order : August 03, 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. Commissioner of Income Tax (Appeals)-6, Kolkata dated 04.11.2019 passed ex-parte, whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is an individual, who filed his return of income for the year under consideration on 28.10.2015 declaring total income of Rs.43,89,610/-. During the course of assessment proceedings, the Assessing Officer noticed that there was a difference in the TDS as claimed by the assessee in the return of income and as reflected in the relevant Form 26AS. He, therefore, required the assessee to explain the said difference. From the perusal of the explanation filed

by the assessee in this regard, the Assessing Officer noticed that there was some amount of TDS for which credit was claimed by the assessee without offering the corresponding contract receipts as income. He, therefore, treated such contract receipts amounting to Rs.13,93,954/- as undisclosed income of the assessee and addition to that extent was made by him to the total income of the assessee in the assessment completed under section 143(3) vide an order dated 16.11.2017.

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 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 04.11.2019 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. The Id. Counsel for the assessee has submitted that none of the notices stated to be issued by the Id. CIT(Appeals) fixing the appeal of the assessee for hearing on certain dates was ever received by the assessee and such non-receipt of notices resulted into non-compliance on the part of the assessee before the Id. CIT(Appeals). He has also submitted that the assessee is in a position to reconcile the difference in TDS as pointed out by the Assessing Officer in order to show that there was no credit claimed by the assessee for any amount of TDS without offering the corresponding contract receipts to tax as his income. He has urged that an opportunity may be given to the assessee to do so by sending the matter back to the Assessing Officer, who can examine/verify the claim of the assessee. Keeping in view all the facts of the case, we consider it just and fair to accept this contention of the Id. Counsel for the assessee. Even the Id. D.R. has not raised any

objection for sending the matter back to the Assessing Officer for proper examination/verification. The impugned order passed by the Id. CIT(Appeals) ex-parte dismissing the appeal of the assessee for non-prosecution is accordingly set aside and the matter is restored to the file of the Assessing Officer for deciding the same afresh after giving the assessee proper and sufficient opportunity of being heard to explain/reconcile the difference in TDS. As undertaken by the Id. Counsel for the assessee, the assessee shall make due compliance before the Assessing Officer and shall extend all the possible cooperation in order to enable the Assessing Officer to make the assessment 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 August 03, 2020.

Sd/-
(Satbeer Singh Godara)
Judicial Member

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

Kolkata, the 3rd day of August, 2020

- Copies to :*
- (1) Shri Pradip Dey,
Kalupukur Main Road, Chandannagore,
Hooghly-712136*
 - (2) Assistant Commissioner of Income Tax,
Circle-23(1), Hooghly,
Aayakar Bhawan, G.T. Road, Chinsurah,
Hooghly-712101*
 - (3) Commissioner of Income Tax (Appeals)-6, 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.