

IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH KOLKATA

**BEFORE SHRI P. M. JAGTAP, HON'BLE VICE-PRESIDENT (KZ) &
SMT. MADHUMITA ROY, HON'BLE JUDICIAL MEMBER
(THROUGH VIRTUAL COURT)**

आयकरअपीलसं./ITA No.2094/Kol/2019

(निर्धारणवर्ष / Assessment Year: 2014-15)

Deepa Lohia 39/3, Dharmatalla Road, Bally, Howrah-711202	Vs.	ITO, Ward-47(3), Kolkata
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABCPL 6647 B		
(Appellant)	..	(Respondent)

Appellant by : None

Respondent by : Smt. Ranu Biswas, Addl. CIT Sr. DR

सुनवाईकीतारीख/ Date of Hearing : 03/08/2020

घोषणाकीतारीख/Date of Pronouncement : 12/08/2020

आदेश / O R D E R

Per Smt. Madhumita Roy, JM:

The instant appeal filed by the assessee is directed against the order dated 26.06.2019 passed by the Commissioner of Income Tax Appeals-14 Kolkata arising out of the order dated 30.06.2017 by the ITO, 47(3), Kolkata under section 271(1)(C) of the Income tax Act, 1961 (hereinafter referred to as "the act") for assessment year 2014-15.

2. At the time of hearing of the instant appeal none appeared on behalf of the assessee. However, upon perusal of the records particularly the impugned order passed by the Learned CIT(A), it appears that the said order was passed ex parte since none appeared on three occasions on behalf of the appellant nor any written reply was filed on the date of hearing before him. The learned CIT(A), therefore, opined that the assessee was not serious to pursue its case and relying upon the decision expressed by the ITAT, Delhi Bench in the case of Multiple in India Ltd, reported in 38 ITD 320 dismissed the matter in limine.

3. It is pertinent to mention that subsection 6 of section 250 of the Act while laying down the procedure in appeal, specifically inserted the direction upon the Commissioner Appeals to dispose of the appeal in writing and to state the points for determination, the decision thereon and the reason for the decision, meaning thereby the appeal is required to be disposed of dealing with the merit and not dismissing the same in limine, ex parte in the garb of disposal. It is needless to mention that in the case in hand before us, the Learned CIT(A) did not perform his duty as envisaged under the statute as explained hereinabove and hence the order impugned is not sustainable in the eyes of law.

We, therefore, keeping in view the entire aspect of the matter, in order to render effective justice find it fit and proper to set aside the order of the Learned CIT(A) with the direction upon him to decide the appeal afresh upon giving a further opportunity of being heard to the assessee and upon considering the evidence on record and also the evidence which the assessee may choose to

file before him. However, we make it clear that the assessee will also cooperate in disposing of the appeal by the Learned CIT(A) without asking for any unnecessary adjournment.

4. In the result assessee's appeal is allowed for statistical purposes.

Order pronounced in the Court on 12.08.2020

**Sd/-
(P. M. JAGTAP)**

उपाध्यक्ष / VICE-PRESIDENT

कोलकाता /Kolkata;

दिनांक/ Date:12/08/2020

(SB, Sr.PS)

**Sd/-
(MADHUMITA ROY)**

न्यायिकसदस्य / JUDICIAL MEMBER

Copy of the order forwarded to:

1. Deepa Lohia
2. ITO, Ward-47(3), Kolkata
3. C.I.T(A)-
4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

True copy

By Order

Assistant Registrar
ITAT, Kolkata Benches