

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH (A-SMC), KOLKATA

[BEFORE SHRI P.M. JAGTAP, HON'BLE VICE PRESIDENT &

SHRI A.T. VARKEY, HON'BLE JUDICIAL MEMBER]

[Through Virtual Court]

I.T.A. No. 487/Kol/2020

Assessment Year: 2011-12

Samania Impex (P) Ltd.....Appellant
C/o. Subash Agarwal & Associates,
Advocates Sioddha Gibson, 1, Gibson Lane,
Suite 213, 2nd Floor,
Kolkata – 700 069.
[PAN: AA ECS 8076 R]

Vs

ITO, Ward – 3(2), Kolkata.....Respondent
Chowringhee Square,
Kolkata – 700 069.

Appearances by:

Shri Subash Agarwal, Advocate appearing on behalf of the Assessee.

Shri Jayanta Khanra, DR appearing on behalf of the Revenue.

Date of concluding the hearing : October 01, 2020

Date of pronouncing the order : October 01, 2020

ORDER

Per P.M. Jagtap, Hon'ble VP:

This appeal filed by the assessee is directed against the order of the Ld. CIT(A) - 16, Kolkata dated 31.10.2019 passed ex-parte whereby he dismissed the appeal of the assessee for non-prosecution.

2. At the outset, it is noted that there is a delay of 247 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, the assessee has filed an application seeking condonation of the said delay and keeping in view the reasons given therein which are duly supported by an affidavit filed by the director of the

assessee-company affirming the relevant fact on oath, we are satisfied that there is a sufficient cause for the delay of 247 days on the part of the assessee in filing this appeal before the Tribunal. Even the Id. DR has not raised any objection in this regard. The delay on the part of the assessee in filing this appeal is accordingly condoned and the said appeal is being disposed of on merit.

3. The assessee in the present case is a company which is engaged in the business of manufacture of M.S. Products & TMT Bars. The return of income for the year under consideration was filed by it on 29.09.2012 declaring total income at Nil. The said return was initially processed by the AO u/s 143(1) of the Income Tax Act, 1961. The assessee, however, was subsequently reopened by him and in the assessment completed u/s 143(3)/147 of the Act vide an order dated 14.09.2016, the total income of the assessee was determined by the AO at Rs. 8,95,150/-.

4. Against the order passed by the AO u/s 143(3)/147, an appeal was preferred by the assessee before the Ld. CIT(A) 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 Ld. CIT(A) dismissed the appeal of the assessee for non-prosecution vide his appellate order dated 31.10.2019 passed ex-parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

5. We have heard the arguments of both the sides and also perused the relevant material available on record. In support of the preliminary issue raised by the assessee in this appeal challenging the impugned order passed by the Ld. CIT(A) ex-parte, the learned counsel for the assessee has submitted that none of the notices of hearings stated to be issued by the Ld. CIT(A) was ever received by the assessee since the said notices were sent to be e-mail address of the assessee-company which was not in use for more than five years. He has contended that the non-receipt of notices resulted in the non-compliance on the part of the assessee during the course of appellate proceedings before the Ld. CIT(A) and since this assertion made on behalf of the assessee is duly supported by an affidavit filed by the assessee-company affirming the relevant fact on oath, we are satisfied that there was a sufficient cause for the non-compliance of the assessee to the notices issued by the Ld. CIT(A) during the course of appellate proceedings before him. Even the Ld. DR has not raised any objection in this regard. Moreover, as per the provisions of sub-section (6) of section 250, the Ld. CIT(A) 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 Ld. CIT(A) does not comply with these requirements. I, therefore, set aside the impugned order passed by the Ld. CIT(A) ex-parte and remit the matter back to him for disposing of the appeal of the assessee afresh on merit by passing a well reasoned and well discussed order after giving proper and sufficient opportunity of being heard to the assessee. As undertaken by the learned counsel for the assessee, the assessee shall make due

compliance before the Ld. CIT(A) and shall extend all the possible cooperation in order to enable the Ld. CIT(A) to dispose of the appeal expeditiously.

6. In the result, the appeal of the assessee is treated as allowed for statistical purpose.

Order Pronounced in the Open Court on 1st October, 2020.

Sd/-

(A.T. Varkey)
JUDICIAL MEMBER

Sd/-

(P.M. Jagtap)
VICE PRESIDENT

Dated: 01/10/2020

Biswajit, Sr. PS

Copy of order forwarded to:

1. Samania Impex (P) Ltd., C/o. Subash Agarwal & Associates, Advocates Siddha Gibson, 1, Gibson Lane, Suite 213, 2nd Floor, Kolkata – 700 069.
2. ITO, Ward – 3(2), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar
ITAT, Kolkata Benches, Kolkata