

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH: KOLKATA

**Before: Shri P.M. Jagtap, Vice-President (KZ) and
Shri A.T. Varkey, Judicial Member**

**I.T.A No. 1105/Kol/2018
A.Y: 2013-14**

M/s.Aarya Industrial Products
Pvt. Ltd.
PAN: AADCA 6403F
[Appellant]

Vs. D.C.I.T., Cir-10(1), Kolkata
[Respondent]

For the Appellant : Shri Manish Tiwari, FCA, Ld.AR
For the Respondent : Shri Jayanta Khanra, JCIT, Id.Sr.DR

Date of hearing (Virtual) : 06-10-2020
Date of pronouncement : 06 -10-2020

ORDER

Shri P.M. Jagtap, V.P:

This appeal preferred by the assessee is directed against the order of the Ld. CIT (Appeals) -4 , Kolkata dated 06-03-2018 passed *ex parte*, whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is a company, which is engaged in the business of trading of chemicals and minerals. The return of income (R.O.I) for the A.Y under consideration was filed by it on 30-09-2013 declaring total income of Rs.4,92,83,470/-. In the assessment completed u/s. 143(3) of the Income-tax Act, 1961 (hereinafter, referred to as the ‘Act’) by an order dt17-03-2016, the total income of the assessee was determined by the AO at Rs.10,52,69,000/- after making the following additions: -

- | | | |
|------|--|------------------|
| i) | Interest income on TDR and rental income: | Rs. 14,61,697/- |
| ii) | Disallowance of assessee’s claim for exemption
in agricultural income : | Rs.2,19,40,000/- |
| iii) | Disallowance on various expenses: | Rs.20,00,000/- |
| iv) | Disallowance for shortage of goods: | Rs.9,77,961/- |

- v) Disallowance u/s. 14A: Rs.2,99,723/-, and
vi) Unexplained cash credit u/s.68: Rs.2,94,00,000/-

3. Against the order passed by the AO u/s. 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) and since there was no satisfactory 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 06-03-2018 passed ex parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before this Tribunal.

4. We have heard the arguments of both the parties and also perused the relevant records. In support of the preliminary issue raised by the assessee in this appeal challenging the impugned order passed of the Ld. CIT(A) ex parte dismissing the appeal of the assessee for non-prosecution, the Ld. Counsel for the assessee has submitted that applications were filed by the assessee in writing before the Ld. CIT(A) seeking adjournment of the hearing initially fixed by the Ld. CIT(A) on four (4) different occasions. He has submitted that the assessee however, could not comply with the notice stated to be issued by the Ld. CIT(A) fixing the appeal of the assessee for hearing finally on 08-02-2018, as the said notice was not received by the assessee. He has contended that the Ld. CIT(A), however, did not give any further opportunity to the assessee and proceeded to dismiss the appeal of the assessee for non-prosecution vide his impugned order passed ex parte, which is a clear violation of principle of natural justice. The Ld. DR has not been able to dispute this position, which is clearly evident from the impugned order passed by the Ld. CIT(A). Moreover, as per specific provisions contained in sub-section (6) of section 250 of the Act, the Ld. CIT(A) was required to dispose off the appeal of the assessee by an order in writing stating therein points for determination, the decision thereon and the reasons for the decision. The impugned order of the Ld. CIT(A) does not comply with these requirements and this position clearing manifest from the impugned order passed by the Ld. CIT(A) ex parte is not disputed even by the Ld. DR. He, however, has urged that the matter may be sent back to the Ld. CIT(A) for disposing off the appeal of the assessee afresh on merits as per the provisions of sub-section (6) of section 250 of the Act. We find merit in the contention of the Ld.DR. Accordingly, the impugned order passed by the Ld. CIT(A) ex parte is set aside and the matter is remitted back to him for disposing off the appeal of the assessee afresh on merits by passing a well discussed and well reasoned order after giving the assessee proper and sufficient opportunity

of being heard. The assessee is directed to make due compliance before the Ld. CIT(A) and to extend all possible co-operation in order to enable the Ld. CIT(A) to dispose off the appeal afresh on merits.

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

Order Pronounced in the Open Court on 6th October, 2020.

Sd/-
A.T. Varkey
Judicial Member

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

Dated 06-10-2020

**PP(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant/Assessee: M/s. Aarya Industrial Products Pvt. Ltd 1st Fl., Santosh Apartment, 9 Hunger Ford Street, Kolkata-17.
2. Respondent/Revenue: The DCIT, Cir-10, Aaykar Bhawan, P-7 Chowringhee Sq., Kolkata-69.
3. CIT,
4. CIT(A), Kolkata.
5. DR, Kolkata Benches, Kolkata

**PP/SPS True Copy By By Order

Assistant Registrar
ITAT Kolkata