

**IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'A', KOLKATA
[BEFORE SHRI P.M. JAGTAP, HON'BLE VICE PRESIDENT (KZ) &
S. S. GODARA, HON'BLE JUDICIAL MEMBER]
[Through Virtual Court]**

**I.T.A. No. 209/Kol/2020
Assessment Year: 2014-15**

Nayantara Mercantile Pvt. Ltd.....Appellant
House No. 16, Opp. CG Gramin Bank,
Choubey Colony, Raipur,
Chhattisgarh - 492001.
[PAN: AACCN 7117 J]

Vs

ITO, Ward - 6(1), Kolkata.....Respondent
Kolkata - 700 069.

Appearances by:

None appearing on behalf of the Assessee.

Shri Dhruvajyoti Ray, JCIT appearing on behalf of the Revenue.

Date of concluding the hearing : October 06, 2020

Date of pronouncing the order : October 06, 2020

ORDER

PER P.M. JAGTAP, VICE-PRESIDENT (KZ)

This appeal filed by the assessee is directed against the order of Ld. CIT(Appeals) - 2, Kolkata dated 26.11.2019 passed ex-parte whereby he dismissed the appeal of the assessee.

2. The assessee in the present case is an investment company which filed its return of income for the year under consideration on 31.03.2015 declaring total income at Nil. The said return was selected for scrutiny and a notice u/s 143(2) of the Income Tax Act, 1961 was issued by the AO to the assessee. The said notice as well as the subsequent notices issued by the AO u/s 142(1) of the Act remained uncomplished with by the assessee. The AO, therefore, was left with no alternative but to complete the assessment ex-parte to the best of his judgement on the basis of material available on record. He noted that fresh investments of Rs. 1.35 crores was made by the assessee-

company during the year under consideration and source of the funds for the same was apparently loans taken from others. Since the assessee could not establish the said loans representing cash credits in terms of section 68 in spite of sufficient opportunity afforded in this regard, the AO treated the same as unexplained cash credit and addition of Rs. 1.35 crores was made by him to the total income of the assessee u/s 68 in the assessment completed u/s 144 of the Act vide an order dated 05.09.2016.

3. Against the order passed by the AO u/s 144, 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 vide his appellate order dated 26.11.2019 passed ex-parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. At the time of hearing fixed in this case before the Tribunal, none has appeared on behalf of the assessee. It is however mentioned by the assessee in the statement of facts filed along with this appeal that a written submission was filed in the office of the Ld. CIT(A), but the same was not considered by the Ld. CIT(A) while dismissing the appeal of the assessee vide his impugned order passed ex-parte. A copy of the said written submission is also placed on record at page no. 31 to 35 of the Paper Book filed by the assessee and a copy of acknowledgement of the same as issued by the office of the Ld. CIT(A) is also placed at page no. 36 of the Paper Book. Keeping in view the

same, the Ld. DR has fairly submitted that this matter can be sent back to the Ld. CIT(A) for disposing of the appeal of the assessee afresh on merit after taking into consideration the written submission filed by the assessee. The impugned order passed by the Ld. CIT(A) ex-parte is accordingly set aside and the matter is remitted back to him for disposing of the appeal of the assessee afresh on merit after taking into consideration the written submission filed by the assessee and after giving one more opportunity of being heard to the assessee. The assessee is also directed to make due compliance before the Ld. CIT(A) and to extend all the possible cooperation in order to enable the Ld. CIT(A) to dispose of the appeal expeditiously.

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/-
(S.S. Godara)
JUDICIAL MEMBER

Sd/-
(P.M. JAGTAP)
VICE PRESIDENT

Dated: 06/10/2020
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Nayantara Mercantile Pvt. Ltd., House No. 16, Opp. CG Gramin Bank, Choubey Colony, Raipur, Chhattisgarh – 492 001.
2. ITO, Ward – 6(1), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar
ITAT, Kolkata