

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

**Before Shri P.M. Jagtap, Vice-President
&
Shri A.T. Varkey, Judicial Member**

**I.T.A. No. 1569/KOL/2019
Assessment Year: 2011-2012**

Anil Kumar Paik,.....Appellant
2B, S.N. Roy Road, Kolkata-700034
[PAN:AFIPP6567R]
-Vs.-

Deputy Commissioner of Income Tax,.....Respondent
Circle-8, Kolkata,
Bamboo Villa,
169, A.J.C. Bose Road, Kolkata-700014

Appearances by:

None, appeared on behalf of the assessee

Shri Dhrubojyoti Roy, JCIT, appeared on behalf of the Revenue

Date of concluding the hearing : October 19, 2020

Date of pronouncing the order : October 19, 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 the Id. Commissioner of Income Tax (Appeals)-17, Kolkata dated 30.11.2018 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 33 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, an application filed by the assessee seeking condonation of the said delay is placed on record and keeping in view the reasons given therein, we are satisfied that there was a sufficient cause for the delay of 33 days on the part of the assessee in filing this appeal before the Tribunal. Even the Id. D.R. has not raised any objection in this regard. The delay of 33 days on the part of the assessee in filing this appeal before the Tribunal is

accordingly condoned and the appeal of the assessee is being disposed of on merit.

3. The assessee in the present case is an individual, who is engaged in the business of property development and general commission agent. The return of income for the year under consideration was filed by him on 31.03.2012 declaring total income of Rs.30,34,640/-. In the assessment completed under section 143(3) vide an order dated 19.03.2014, the total income of the assessee was determined by the Assessing Officer at Rs.3,11,77,730/- after making the following additions:-

Unexplained investment in purchase of land	Rs. 15,00,000/-
Unexplained credit advances	Rs.2,09,99,532/-
Remission of trading liability under section 41(1) of the Act	Rs. 50,13,563/-
Undisclosed receipts	Rs. 6,30,000/-

4. Against the order passed by the Assessing Officer under section 143(3) of the Act, an appeal was preferred by the assessee before the Id. CIT(Appeals) 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 Id. CIT(Appeals) dismissed the appeal of the assessee for non-prosecution vide his appellate order dated 30.11.2018 passed ex-parte. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

5. At the time of hearing fixed in this case today, none has appeared on behalf of the assessee. It is observed from the impugned order passed by the Id. CIT(Appeals) that even though the notices of hearing were stated to be issued by the Id. CIT(Appeals) to the assessee, there is nothing to show that the said notices were actually served on the assessee. Moreover, as per the provisions of sub-section (6) of section

250, the Id. CIT(Appeals) 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. We, therefore, consider it fair and proper and in the interest of justice to set aside the impugned order passed by the Id. CIT(Appeals) ex-parte dismissing the appeal of the assessee for non-prosecution and remit the matter back to him for disposing of the appeal of the assessee afresh on merit in accordance with law by passing a well discussed and well reasoned order after giving proper and sufficient opportunity of being heard to the assessee. The assessee is directed to make due compliance before the Id. CIT(A) and extend all the possible cooperation in order to enable the Id. CIT(A) to dispose of the appeal afresh expeditiously.

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

Order pronounced in the open Court on October 19, 2020.

**Sd/-
(A.T. Varkey)
Judicial Member**

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

Kolkata, the 19th day of October, 2020

- Copies to :*
- (1) Anil Kumar Paik,
2B, S.N. Roy Road, Kolkata-700034*
 - (2) Deputy Commissioner of Income Tax,
Circle-8, Kolkata, Bamboo Villa,
169, A.J.C. Bose Road, Kolkata-700014*
 - (3) Commissioner of Income Tax (Appeals)-17, Kolkata,*
 - (4) Commissioner of Income Tax ,*
 - (5) The Departmental Representative*
 - (6) Guard File*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.