

**IN THE INCOME TAX APPELLATE TRIBUNAL "C"**  
**(Virtual Court Hearing), BENCH KOLKATA**

**BEFORE SHRI J. SUDHAKAR REDDY, AM & MS. MADHUMITA ROY, JM**

**आयकरअपीलसं./I.T.A No.448/Kol/2020**

**(निर्धारणवर्ष / Assessment Year: 2012-13)**

<b>M/s Kalyankari Wholeseller Pvt. Ltd.</b>  277, B.B. Ganguly Street, 5 <sup>th</sup> Floor, R.No.505, Kolkata – 700012.	<b>Vs.</b>	<b>ITO, Ward-11(2), Kolkata</b>  .
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAECK6914E</b>		
<b>(Appellant)</b>	<b>..</b>	<b>(Respondent)</b>

Appellant by : Shri S. K. Tulsiyan, AR

Respondent by : Shri Vijay Shankar, CIT

सुनवाईकीतारीख/ Date of Hearing : 17/11/2020

घोषणाकीतारीख/Date of Pronouncement : 20/11/2020

**आदेश / ORDER**

**Per Ms. Madhumita Roy:**

The instant appeal filed by the Assessee is directed by the ex parte order dated 15.03.2019 passed by the Commissioner of Income Tax (Appeals)-4, Kolkata arising out of the order dated 25.03.2015 passed by the ITO, Ward-11(2), Kolkata u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the assessment years 2012-13.

2. There was a delay of 114 days in preferring the instant appeal before the Ld Tribunal. In this regard the Ld. Counsel appearing for the assessee submitted that the order dated 15.03.2019 was received by him only on 28.01.2020 and the date of filing the appeal was by 28.03.2020 and thus there was no such delay

factually occurred in filing the instant appeal. In support of the argument he also filed an affidavit which is on record before us upon perusal of which we find substance in the argument made by the Id. Counsel for the assessee and the plea taken by the assessee seems to be genuine. Hence, on the facts and circumstances stated above, the delay is hereby condoned.

3. At the time of hearing of the instant appeal, the Ld. Counsel appearing for the assessee submitted before us that the practically the Ld. A.O passed an ex parte order since all books of accounts, bank statements, copies of return and Income Tax return of the directors were not considered by him and therefore though the assessee has come up in appeal against the ex parte order passed by the Ld. CIT(A), the matter needs to be examined by the Ld. A.O in adhere to the principle of natural justice which is denied to the assessee by the Ld. A.O. He, therefore, preyed the matter to be decided by the Ld. A.O afresh. On the other hand, the Id. DR submitted that the matter be restored to the file of the Ld. CIT(A).

4. Heard the submissions made by the respective parties, we have also perused the relevant materials available on record. Considering the facts and circumstances of the case and the statement made at paragraph 13 in the assessment order evidencing that the papers mainly the books of accounts, bank statement, copies of return and Income Tax return were not considered by him we for the ends of justice find it fit and proper to remand the issue for his consideration afresh on the basis of the evidences to be made available before him by the assessee with a further direction upon him to give an opportunity of being heard to the assessee. We further make it clear that the assessee would also cooperate with the Ld. A.O in disposing of the matter without asking for any unnecessary adjournment.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 20.11.2020.

Sd/-  
**(J. Sudhakar Reddy)**  
ACCOUNTANT MEMBER

Sd/-  
**(Madhumita Roy)**  
JUDICIAL MEMBER

कोलकाता /Kolkata;

दिनांक/ Date: 20/11/2020

RS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. The Appellant- M/s Kalyankari Wholeseller Pvt. Ltd.
2. The Respondent- ITO, Ward-11(2), Kolkata
3. आयकरआयुक्त(अपील) / The CIT(A), Kolkata [sent through email]
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, कोलकाता/ DR, ITAT, Kolkata [sent through email]
6. गार्डफाईल / Guard file.  
सत्यापितप्रति

True Copy

By Order

Assistant Registrar,  
I.T.A.T, Kolkata Benches,  
Kolkata.