

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH '(SMC)', KOLKATA
[BEFORE SHRI P.M. JAGTAP, VICE PRESIDENT (KZ)]

[THROUGH VIRTUAL COURT]

I.T.A. No. 2132/Kol/2019

Assessment Year: 2013-14

M/s. Tamluk F.L. OFF Shop.....Appellant
Gourisankar More, Parbatipur,
Tamluk, Purba Medinipur – 721 636
[PAN: AADFT 8951 G]

Vs

ITO, Ward – 27(4), Haldia.....Respondent

Appearances by:

Shri K.M. Roy, CA appearing on behalf of the Assessee.

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

Date of concluding the hearing : December 15, 2020

Date of pronouncing the order : December 15, 2020

ORDER

This appeal filed by the assessee is directed against the order of Ld. CIT(A) – 7, Kolkata dated 12.02.2019 passed ex-parte whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is a partnership firm which filed its return of income for the year under consideration on 28.03.2014 declaring a total income of Rs. 5,02,800/-. In the assessment completed u/s 143(3) of the Act vide an order dated 31.12.2015, the total income of the assessee was determined by the AO at Rs. 43,17,970/- after making the following additions:

<i>"i. Undisclosed purchase</i>	<i>Rs. 4,11,425/-</i>
<i>ii. Difference between 26AS and purchase statement</i>	<i>Rs. 12,60,458/-</i>
<i>iii. Unexplained credit note</i>	<i>Rs. 6,36,611/-</i>
<i>iv. Unexplained payment for purchase</i>	<i>Rs. 12,56,683/-</i>
<i>v. Unexplained sale</i>	<i>Rs. 2,49,991/-"</i>

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 the Ld. CIT(A) fixing the said appeal of the assessee for hearing from time to time. The Ld. CIT(A), therefore, dismissed the appeal of the assessee for non-prosecution vide his appellate order dated 12.02.2019 passed ex-parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. I 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 received by the assessee and such non-receipt of notices resulted into non-appearance of the assessee, when his appeal was called for hearings before the Ld. CIT(A). Keeping in view this submission made by the learned counsel for the assessee, I am satisfied that there was a sufficient cause for the non-compliance of the assessee during the course of appellate proceedings before the Ld. CIT(A). 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 in accordance with law 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.

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

Order Pronounced in the Open Court on 15th December, 2020.

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

Dated: 15/12/2020
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Tamluk F.L. Off Shop.
2. ITO, Ward – 27(4), Haldia.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar
ITAT, Kolkata