

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'A' BENCH, KOLKATA**

**Before Shri J. Sudhakar Reddy, Accountant Member
& Shri A.T. Varkey, Judicial Member**

**I.T.A. No. 187/KOL/2018
Assessment Year: 2014-2015**

Binod Kumar Kaushik,..... Appellant
Room No. 10, 4th Floor,
51, Canning Street, Moti Market,
Kolkata-700001
[PAN:AFVPK1248Q]

-Vs.-

Income Tax Officer,..... Respondent
Ward-34(1), Kolkata,
Aayakar Bhawan Poorva,
110, Shanti Pally, Kolkata-700107

Appearances by:

Shri S.K. Tulsiyan, Advocate & Ms. Puja Somani, C.A., appeared on behalf of the assessee

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

Date of concluding the hearing : March 23, 2021

Date of pronouncing the order : March 30, 2021

O R D E R

Per Shri A.T. Varkey, Judicial Member:-

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-10, Kolkata dated 20.11.2017 for assessment year 2014-15 passed ex-parte, whereby he dismissed the appeal of the assessee for non-prosecution.

2. At the outset, the Id. Counsel for the assessee has drawn our attention to the fact that the Id. CIT(Appeals) has passed an ex-parte

order without hearing the assessee. According to the ld. A.R., a notice was issued on 02.05.2017 by the ld. CIT(Appeals), however, the assessee did not receive any notice. According to the assessee, thereafter the ld. CIT(Appeals) issued a notice dated 09.10.2017 wherein the assessee took an adjournment and the matter was again fixed for hearing on 08.11.2017. Since the matter was fixed at 10:00 a.m. on 08.11.2017, the ld. A.R. of the assessee promptly was present at the office of the ld. CIT(Appeals) for the hearing. However, the ld. CIT(Appeals) was not present in his office. After waiting for an hour, the ld. A.R. left the office of the ld. CIT(Appeals) for another hearing/case. Meanwhile, the assessee was shocked to learn that the ld. CIT(Appeals) without hearing the assessee/A.R. has decided the appeal ex-parte vide an order dated 20.11.2017. Since the ld. CIT(Appeals) has passed the order ex-parte without hearing the assessee, we are of the opinion that there is violation of natural justice and we are of the view that the ld. CIT(Appeals) ought to have heard the appeal on merits and decided the grounds of appeal as per sub-section (6) of section 250 of the Income Tax Act, 1961 (herein after the Act).

3. We, in the interest of justice set aside the impugned order passed by the ld. CIT(Appeals) ex-parte dismissing the appeal of the assessee 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.

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

Order pronounced in the open Court on March 30, 2021.

Sd/-

**(J. Sudhakar Reddy)
Accountant Member**

Sd/-

**(A.T. Varkey)
Judicial Member**

Kolkata, the 30th day of March, 2021

- Copies to :
- (1) **Shri Binod Kumar Kaushik,
Room No. 10, 4th Floor,
51, Canning Street, Moti Market, Kolkata-700001**
 - (2) **Income Tax Officer,
Ward-34(1), Kolkata,
Aayakar Bhawan Poorva,
110, Shanti Pally, Kolkata-700107**
 - (3) *Commissioner of Income Tax (Appeals)-10, 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.