

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

**Before Shri P.M. Jagtap, Vice-President (KZ)
and Shri Satbeer Singh Godara, Judicial Member**

**I.T.A. No. 66/KOL/2021
Assessment Year: 2015-2016**

***M/s. Rosemary Vincom LLP,.....Appellant
(Earlier known as M/s/ Rosemary Vincom Pvt. Limited),
Village Post, Paniarah, Howrah-711302
[PAN: AASFR0062P]***

-Vs.-

***Assistant Commissioner of Income Tax (OSD),.....Respondent
Ward-4(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

*Shri Sunil Surana, A.R., for the Applicant
Smt; Ranu Biswas,, Addl. CIT, D.R., for the Respondent*

Date of concluding the hearing : April 16, 2021

Date of pronouncing the order : April 16, 2021

O R D E R

Per Shri P.M. Jagtap, Vice-President (KZ):-

This appeal filed by the assessee is directed against the order ld. Commissioner of Income Tax (Appeals)-2, Kolkata dated 03.04.2019.

2. At the outset, it is noted that there is delay of 186 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, the assessee has moved an application seeking condonation of the said delay and keeping in view the reasons given therein, we are satisfied that there was a sufficient cause for the delay of 186 days on the part of the assessee in filing this appeal before the Tribunal. Even the ld. D.R. has not

raised any objection in this regard. The said delay is accordingly condoned and this appeal of the assessee is being disposed of on merit.

3. The assessee in the present case is a Company, which is engaged in the business of trading and others. The return of income for the year under consideration was filed by the assessee on 11.01.2016 declaring a loss of Rs.2,21,638/-. In the assessment completed under section 143(3) vide an order dated 11.12.2017, the total income of the assessee was determined by the Assessing Officer at Rs.42,48,781/- after making addition, inter alia, on account of interest income amounting to Rs.43,93,116/- by treating the same as undisclosed income of the assessee.

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 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 03.04.2019 passed ex-parte. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

5. We 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 Id. CIT(Appeals) ex-parte, the Id. Counsel for the assessee has submitted that none of notices stated to be issued by the Id. CIT(Appeals) fixing the appeal of the assessee for hearing from time to time was ever received by the assessee and such non-receipt of notices resulted in non-compliance on the part of the assessee before the Id. CIT(Appeals). He has also invited our attention to the relevant portion of the impugned order of the Id. CIT(Appeals) to point out that the notices

of hearing sent by the Id. CIT(Appeals) were not served on the assessee and the same were returned back 'undelivered' by the Postal Authority. Keeping in view all these facts of the case, we find merit in the contention of the Id. Counsel for the assessee that the appeal of the assessee was dismissed by the Id. CIT(Appeals) vide his impugned order passed ex-parte without giving proper and sufficient opportunity of being heard to the assessee and there is a clear violation of principle of natural justice. Moreover, the Id. CIT(Appeals) as per the provisions of sub-section (6) of section 250 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 Id. CIT(Appeals) 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 after giving proper and sufficient opportunity of being heard to the assessee and by passing a well reasoned and well discussed order.

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

Order pronounced in the open Court on April 16, 2021.

**Sd/-
(Satbeer Singh Godara)
Judicial Member**

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

Kolkata, the 16th day of April, 2021

Copies to : (1) ***M/s. Rosemary Vincom LLP,
(Earlier known as M/s/ Rosemary Vincom Pvt. Limited),
Village Post, Paniarah, Howrah-711302***

(2) ***Assistant Commissioner of Income Tax (OSD
Ward-4(1), Kolkata,***

***Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069***

- (3) Commissioner of Income Tax (Appeals)-2, 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.