

आयकर अपीलिय अधीकरण, न्यायपीठ –“A” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
 [Before Shri A. T. Varkey, Hon’ble Judicial Member and Dr. M. L. Meena, Hon’ble Accountant Member]

I.T.A. No. 2493/Kol/2019
Assessment Year: 2015-16

Arpita Pradhan [PAN: APJPP 9585 P]	Vs.	ITO, Ward – 27(2), Haldia
Appellant		Respondent

Date of Hearing (Virtual)	03.08.2021
Date of Pronouncement	06.08.2021
For the Appellant	None
For the Respondent	Shri Supriyo Pal, Addl. CIT

ORDER

Per Bench:

This is an appeal preferred by the assessee against the order of the Ld. CIT(A)-7, Kolkata dated 20.09.2019 for AY 2015-16.

2. None appeared for the assessee.

3. However on a perusal of the grounds of appeal of the assessee it reveals that the assessee is aggrieved by the ex-parte order passed by the Ld. CIT(A) confirming the penalty u/s 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as the Act). It is noted that the Ld. CIT(A) has passed an ex-parte order confirming the penalty imposed by the AO. Since it is an ex-parte order and the assessee has raised grounds both legal as well as on merits against the levy of penalty, we are of the opinion that the Ld. CIT(A) ought to have decided the appeal as per law in respect of legal issue as well as on merits.

4. Even though the Ld. CIT(A) has mentioned in his order the three (3) dates fixing the hearing we do not find any mention about the service of notice. It has to be kept in mind that the assessee has a statutory right of appeal before the Ld. CIT(A) if he is aggrieved by the

order of AO; and such a right would be meaningless if the Ld. CIT(A) passes the order ex-parte without adjudicating the grounds of appeal raised by the assessee in accordance to law. In the light of the aforesaid discussion, the impugned order of the Ld. CIT(A) is set aside and the appeal is restored back to his file with the direction to consider the appeal de novo and adjudicate the same in accordance to law. The assessee is directed to promptly appear before the Ld. CIT(A) or file written submission along with documents to substantiate its defense against the levy of penalty. With the aforesaid observation, the appeal of the assessee is disposed off.

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

Order is pronounced in the open court on 6th August, 2021.

Sd/-

(A. T. Varkey)
Judicial Member

Sd/-

(Dr. M.L. Meena)
Accountant Member

Dated: 6th August, 2021

SB, Sr. P.S

Copy of the order forwarded to:

1. Appellant- Arpita Pradhan, Contai Block-II, Marishdanachinda Nachinda Bazar, East Midnapore – 721 444.
2. Respondent – ITO, Ward – 27(2), Haldia
3. The CIT(A)- Kolkata (sent through e-mail)
4. CIT- Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Senior Private Secretary/DDO
ITAT, Kolkata Benches, Kolkata
