

आयकर अपीलीय अधीकरण, न्यायपीठ –“B” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA**  
[Before Shri A. T. Varkey, Judicial Member & Shri Manoj Kumar Aggarwal, AM]

**I.T.A. No. 2196/Kol/2019**  
**Assessment Year: 2012-13**

Naba Kumar Roy (PAN: ACQPR6740L)	Vs.	Income tax Officer, Ward-2(4), Burdwan
Appellant		Respondent

Date of Hearing (Virtual)	10.11.2021
Date of Pronouncement	08.12.2021
For the Appellant	N o n e
For the Respondent	Smt. Ranu Biswas, Addl. CIT

**ORDER**

**Per Shri A. T. Varkey, JM:**

This is an appeal preferred by the assessee against the order of Ld. CIT(A)-Burdwan dated 26.06.2019 for AY 2012-13.

2. None appeared for the assessee. 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 addition of Rs.53,96,910/- made by the AO as undisclosed business income in the hands of the assessee. Since it is an ex-parte order and the assessee has raised grounds both legal as well as on merits against the addition, 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.

3. Even though the Ld. CIT(A) has mentioned in his order the four (4) 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 claim against the addition made by the AO. With the aforesaid observation, the appeal of the assessee is disposed off.

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

Order is pronounced in the open court on 8<sup>th</sup> December, 2021.

Sd/-  
(Manoj Kumar Aggarwal)  
Accountant Member

Sd/-  
(A. T. Varkey)  
Judicial Member

Dated: 8<sup>th</sup> December, 2021

*JD, Sr. PS*

Copy of the order forwarded to:

1. Appellant- Shri Naba Kumar Roy, Vill & PO Kendur, Dist. Burdwan, Pincode-713427.
2. Respondent – ITO, Ward-2(4), Burdwan
3. CIT(A), Burdwan (sent through e-mail)
4. CIT, .
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Senior Private Secretary/DDO  
ITAT, Kolkata Benches, Kolkata

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