

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA**  
(समक्ष)श्री पी. एम.जगताप,उपाध्यक्ष एवं श्री ए.टी. वर्की,न्यायिक सदस्य)

[Before Shri P.M. Jagtap, Vice President (KZ) & Shri A. T. Varkey, JM]

**I.T.A. No. 1973/Kol/2019**  
Assessment Year: 2012-13

Bimla Devi Sureka (PAN: AKOPS6737Q)	Vs.	Deputy Commissioner of Income-tax, Central Circle-3(3), Kolkata
Appellant		Respondent

Date of Hearing	30.11.2021
Date of Pronouncement	15.12.2021
For the Appellant	Shri Subash Agarwal, AR
For the Respondent	Shri P. P. Barman, Addl. CIT, DR

**ORDER**

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

This appeal has been preferred by the assessee against the order of Ld. CIT(A)-21, Kolkata dated 10.07.2019 for AY 2012-13.

2. At the outset, the Ld. AR Shri Subash Agarwal drew our attention to the fact that the impugned order of the CIT(A) is an ex parte order which fact we find it to be correct. According to the Ld. AR, the assessee could not appear before the Ld. CIT(A) because the assessee was unaware of the notice of the hearing because it was not served upon the assessee and that the assessee had filed an affidavit swearing this fact. Therefore, according to him, there is a violation of natural justice since the assessee did not get opportunity to appear and plead before the Ld. CIT(A) during the hearing. So, he urged before the bench to restore the appeal back to the file of Ld. CIT(A). The Ld. DR opposes the prayer of the assessee.

3. We have heard the submissions of both the sides and note that the assessee's main grievance is that assessee was unaware of the notice of hearing so, he could not participate in the appellate proceedings which prompted the Ld. CIT(A) to confirm the action of AO. The

assessee's prayer is that the appeal may be restored back to the file of Ld. CIT(A). We note that since the assessee could not participate in the appellate proceedings because she was unaware of the date of hearing, the Ld. CIT(A) has dismissed the appeal citing non-participation of assessee. We note that assessee could not participate in the appellate proceedings for no fault of assessee, so we are of the opinion that the assessee should have been heard before the Ld. CIT(A) passes the order in the appeal preferred by the assessee. So we set aside the impugned order and restore the appeal back to the file of Ld. CIT(A) to decide the appeal on merits after hearing the assessee. And the assessee to participate in the appellate proceedings as undertaken before us. And the Ld. CIT(A) to pass a reasoned order.

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

Order is pronounced in the open court on 15 December, 2021.

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

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

Dated: 15.12.2021

JD(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant- Bimla Devi Sureka, 28/1, Shakespeare Sarani, Kolkata-700 017.
2. Respondent – DCIT, Central Circle-3(3), Kolkata.
3. CIT(A)-21, Kolkata (sent through e-mail)
4. CIT, Kolkata.
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

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By Order

Senior Private Secretary/DDO  
ITAT, Kolkata Benches, Kolkata