

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA BENCH "A", KOLKATA**  
आयकर अपीलीय अधीकरण, न्यायपीठ - "A" कोलकाता,

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER  
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.452/Kol/2019  
Assessment Year: 2015-16**

<b>Sri Anand Prasad C/o, Uma Shankar Prasad, Khalpara, Siliguri-734005 (PAN: AMMPP1344E)</b>	Vs.	<b>Income Tax Officer, Ward- 1(1), Siliguri</b>
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Piyush Lakhota, AR

Respondent by : Shri Biswanath Das, Sr. DR

Date of Hearing : 16.08.2022

Date of Pronouncement : 18.08.2022

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal by the assessee is arising out of the order of Id. CIT(A), Siliguri, vide Appeal No. 32/CIT(A)/SLG/2017-18 dated 15.01.2019 against the order of Ld. ITO, Ward-1(1), Siliguri passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the Act), dated 19.07.2017 for AY 2015-16.

2. Though the assessee has raised four grounds of appeal but the first and foremost ground of appeal is against the order of Ld. CIT(A) in disposing of the appeal without allowing the assessee any reasonable opportunity of being heard.

3. At the time of hearing, Ld. Counsel for the assessee Shri Piyush Lakhota submitted that that the impugned order of the Ld. CIT(A) is an ex parte order. On perusal of the impugned order, it is noted that the

Ld. CIT(A) had given three (3) notices and since none appeared, the Ld. CIT(A) was pleased to dismiss the appeal by observing as under:

*“3.4. I have perused the grounds of appeal, statement of facts and the assessment order. The assessee has not produced any material to controvert the finding of A.O. on merits AO’s order seems reasonable. Further, from the above conduct of the assessee, it is clear that the assessee is not interested in prosecuting its appeal. In the event, I have no reason to interfere with the findings of the AO. In such circumstances, I dismiss the claim of the appellant.”*

According to the Ld. AR, the notice of hearing was not received by the assessee, therefore, he could not appear before the Ld. CIT(A). Be that as it may, it should be borne in mind that if an assessee is aggrieved by the order of the AO, it has got statutory right to appeal before the Ld. CIT(A) which exercise would be rendered meaningless, if the Ld. CIT(A) does not decide the appeal of assessee on merits. Therefore, the impugned order is set aside and the matter is restored back to the file of the Ld. CIT(A) with a direction to properly serve the notice as per law even by digital means and in future the authorized representative of the assessee must be vigilant to take notice of such communication from the office of Ld. CIT(A) and diligently appear before the Ld. CIT(A); and if advised, file written submission and other documents to substantiate his grounds of appeal. With the above observation, the appeal of the assessee is allowed for statistical purposes.

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

Order is pronounced in the open court on 18<sup>th</sup> August, 2022

Sd/-

**(SANJAY GARG)**  
**JUDICIAL MEMBER**

Sd/-

**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

Kolkata, Dated: 18.08.2022.

JD, Sr. P.S.

Copy to:

1. The Appellant:
  2. The Respondent:
  3. The CIT(A), Siliguri
  4. The ITO, Ward-1(1), Siliguri
  5. The DR, ITAT, Kolkata.
- //True Copy//

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata