

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

आयकर अपीलीय अधीकरण, न्यायपीठ - "C" कोलकाता,

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

**ITA No.1281/Kol/2019  
Assessment Year: 2009-10**

Sri Kanaka Durga Steel & Construction Pvt. Ltd. 161/1, Mahatma Gandhi Road, Room No. 23, Kolkata-700 007. (PAN: AAFCS4338H)	Vs.	Income Tax Officer, Ward-59(2), Kolkata.
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Appellant by : N o n e

Respondent by : Shri Subhrajyoti Chakraborty, Addl. CIT, DR

Date of Hearing : 13.07.2022

Date of Pronouncement : 06.09.2022

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal by the assessee is directed against the order of Ld. CIT(A)-24, Kolkata vide Appeal No.488/CIT(A)-24/Kol/12-13 dated 23.11.2017 for A.Y. 2009-10 arising out of order passed u/s. 201(1)/201(1A) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') by ITO, Ward-59(2), Kolkata dated 16.11.2012.

2. The only ground of appeal of the assessee relates to order passed by ITO u/s. 201(1)/201(1A) of the Act raising a demand of Rs.44,470/- on account of tax deducted but not paid and interest on late payment.

3. Brief facts from record are that assessee has filed e-TDS statement for 4<sup>th</sup> quarter in Form No. 26Q for the FY 2008-09 relevant to Ay 2009-10 on 03.06.2009. From the perusal of the e-TDS statement filed by the assessee it was noted that assessee has deducted tax at source but has not paid, for which a show cause notice was issued and was

advised to file "correction statement" to rectify the data entry errors, if any. After considering the 'correction statement', the ITO held the assessee as assessee in default in respect of TDS done but not paid and interest on late payment totaling to Rs.44,470/- vide his order dated 16.11.2012 passed u/s. 201(1)/201(1A) of the Act. Aggrieved, assessee went in appeal before the Ld. CIT(A). Ld. CIT(A) in the First Appellate Proceeding noted that dates for hearing were fixed on three occasions i.e. 03.10.2017, 03.11.2017 and 17.11.2017 but assessee did not turn-up to make its submissions to substantiate the claim. Accordingly, Ld. CIT(A) chose to decide the matter ex parte and dismissed the appeal of the assessee. Aggrieved, the assessee is in appeal before the Tribunal.

4. Before us also neither any one appeared on behalf of the assessee nor any submission or any paper book has been placed on record for substantiating the claims made in the present appeal. Shri Subhrajyoti Chakraborty, Addl. CIT represented the department.

5. We note that assessee has neither appeared before the Ld. CIT(A) nor before us to substantiate its claim nor it has furnished any evidence/material on record for meritorious disposal of the appeal. From the order of the ITO, we note that assessee was given an opportunity to file a 'correction statement' for rectifying the data entry errors, if any. Ld. ITO notices the default after the expiry of stipulated period for filing the 'correction statement' in which a time for 15 days was given to the assessee. Even before the ITO no such opportunity was availed by the assessee as noted from the impugned order. Thus, we note that at all three stages i.e. before the ITO, before the Ld. CIT(A) as well as before us, the assessee has not made its representation for the grievance raised by it. Accordingly, in absence of any documentary evidence and submissions made by the assessee, despite reasonable opportunity being given at all the three aforesaid stages of the

proceedings, we find it proper to dismiss the appeal of the assessee. Accordingly, ground raised by the assessee is dismissed.

6. In the result, the appeal of the assessee is dismissed.

Order is pronounced in the open court on 6<sup>th</sup> September, 2022.

Sd/-

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

Sd/-

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

Dated: 06.09.2022

JD, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:.
3. The CIT(A)-24, Kolkata.
4. The CIT , Kolkata.
5. The DR, ITAT, Kolkata Bench, Kolkata

//True Copy//

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata