

**IN THE INCOME TAX APPELLATE TRIBUNAL GUWAHATI BENCH,  
(VIRTUAL HEARING AT KOLKATA)**

**[BEFORE DR. MANISH BORAD, ACCOUNTANT MEMBER &  
SHRI SONJOY SARMA, JUDICIAL MEMBER]**

**ITA No. 86/GTY/2020**  
Assessment Year: 2016-17

Dipak Nath  Phukan Nagar, Sivasagar, Assam- 785640  (PAN: ABCPN 8066 C)	Vs.	ITO, Ward-1, Sivasagar
Appellant		Respondent

Date of Hearing	19.10.2022
Date of Pronouncement	29.11.2022
For the Appellant	Shri Siddartha Boruah, Advocate
For the Respondent	Shri N.T. Sherpa, JCIT

**ORDER**

**PER SONJOY SARMA, JM:**

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax(Appeals), Jorhat (hereinafter referred to as the Ld. CIT(A)”) dated 26.09.2019 for the AY 2016-17.

2. At the outset, the Ld. Counsel for the assessee submitted that the Ld. CIT(A) has decided the appeal ex-parte as the assessee could not appear on the various occasions when the Ld. CIT(A) fixed the appeals for hearing. The Ld. Counsel submitted that the notices sent by the Ld. CIT(A) were not received by the assessee and therefore the these appeal of the assessee remained unattended before the Ld. CIT(A). The ld. Counsel of the assessee prayed before the Bench that the assessee may kindly be given one more opportunity to defend its case on merit before the Ld. CIT(A) by restoring this appeal to the file of the Ld. CIT(A).

3. The Ld. D.R on the other hand strongly objected the prayers of the Ld. A.R by submitting that despite several opportunities granted the assessee did not appear and therefore the said request of the counsel of the assessee may kindly be dismissed.

4. After hearing the rival parties and perusing the material on record, we observe that the assessee's appeal was decided ex-parte when the assessee failed to turn up on the dates fixed for hearings and now therefore in the interest of justice and fairplay, the assessee deserves to be given one more opportunity to defend its case before the Ld. CIT(A) on merits. Accordingly we restore the appeal to the file of the Ld. CIT(A) with the directions to decide the same on merits by affording the assessee a reasonable opportunity of hearing. Simultaneously, we also direct the assessee to cooperate in the disposal of this appeal.

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

Order is pronounced in the open court on 29.11.2022

Sd/-

(Manish Borad)  
Accountant Member

Sd/-

(Sonjoy Sarma)  
Judicial Member

Dated: 29.11.2022

*Biswajit, Sr. PS*

Copy of the order forwarded to:

1. Appellant– Dipak Nath
2. Respondent – ITO, Ward-1, Sivasagar.
3. CIT(A),
4. CIT ,
5. DR, ITAT,

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata