

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

**Before Dr. Manish Borad, Accountant Member
&
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 149/KOL/2023
Assessment Year: 2017-2018**

***Rizwana Farooque,.....Appellant
C/o. Subash Agarwal & Associates,
Advocates,
Siddha Gibson, 1, Gibson Lane,
Suite-213, 2nd Floor, Kolkata-700069
[PAN: AAZPF9187E]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-32(2), Kolkata,
10B, Middleton Road,
Kolkata-700071***

Appearances by:

*Shri Siddharth Agarwal, A.R., appeared on behalf of the
assessee*

*Shri Vijay Kumar, Addl. CIT, appeared on behalf of the
Revenue*

Date of concluding the hearing : April 12, 2023

Date of pronouncing the order : June 13, 2023

O R D E R

Per Dr. Manish Borad, Accountant Member:-

This appeal at the instance of assessee for assessment year 2017-18 is directed against the order of ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 27.12.2022, which is arising out of the order under section 143(3) of

the Act dated 14.11.2019 framed by ITO, Ward-32(2), Kolkata.

2. The grounds of appeal raised by the assessee read as under:-

(1) For that the Ld. CIT (Appeal) was not justified in dismissing the appeal of the assessee by passing an ex-parte order without providing any reasonable opportunity of hearing.

(2) For that the ld. CIT(A) ought to have deleted the addition of Rs.22,06,500/- made by the AO on account of unexplained money u/s 69A of the Act.

3. We have heard the rival contentions and gone through the record carefully. We find that the ld. 1st Appellate Authority has dismissed the appeal of the assessee for want of prosecution without adjudicating the issues on merit. From the record, we find that the assessee has submitted through affidavit dated 06.04.2023 that he was undergoing some medical treatment and, therefore, was unable to appear before the ld. CIT(Appeals) and requested to send back the matter to the file of ld. CIT(Appeals) for fresh adjudication. Sub-section (6) of section 250 contemplates that ld. CIT(Appeals) would determine the points in dispute and thereafter records the reasons in support of his conclusion on those points. A perusal of the order of ld. CIT(Appeals) would reveal that it is a non-speaking order, which does not deal with any of the issues agitated in the grounds of appeal before CIT(A) or

issues taken up in the assessment order. Therefore, we allow this appeal for statistical purposes, set aside the impugned order of Id. CIT(Appeals) and restore the issues to the file of Id. CIT(Appeals) for fresh adjudication.

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

Order pronounced in the open Court on 13th June, 2023.

Sd/-

(Sonjoy Sarma)
Judicial Member

Sd/-

(Manish Borad)
Accountant Member

Kolkata, the 13th day of June, 2023

*Copies to :(1) Rizwana Farooque,
C/o. Subash Agarwal & Associates,
Advocates,
Siddha Gibson, 1, Gibson Lane,
Suite-213, 2nd Floor, Kolkata-700069*

*(2) Income Tax Officer, Ward-32(2), Kolkata,
10B, Middleton Road, Kolkata-700071*

*(3) CIT(Appeals), National Faceless Appeal
Centre (NFAC), Delhi;*

(4) Commissioner of Income Tax- ;

(5) The Departmental Representative

(6) Guard File

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.