

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

**Before Shri P.M. Jagtap, Accountant Member and
Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. No. 674/KOL/ 2014
Assessment Year: 2004-2005**

The Bisra Stone Lime Co. Limited,.....Appellant
AG-104, Sourav Abasan, 2nd Floor,
Sale Lake, Sector-II,
Kolkata-700 091
[PAN: AABCT 2118 C]

-Vs.-

Assistant Commissioner of Income Tax,.....Respondent
Circle-5, Kolkata

Appearances by:

Shri T.P. Kar, F.C.A., for the assessee

Shri Sallong Yaden, Additional CIT (D.R), for the Department

Date of concluding the hearing : January 24, 2017

Date of pronouncing the order : February 03, 2017

O R D E R

Per Shri P.M. Jagtap, A.M.:

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-IV, Kolkata dated 03.02.2014 passed ex-parte, whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is a Company, which is engaged in the business of Mining and sale of Limestone and Dolomite. The return of income for the year under consideration was filed by it on 15.10.2004 declaring a loss of Rs.47,70,86,527/-. In the assessment completed under section 143(3) vide an order dated 22.12.2006, the total income of the assessee was determined by the Assessing Officer at a loss of Rs.47,48,08,401/- after making the following three additions:-

(i)	Disallowance of provision for doubtful debts	Rs.4,84,643/-
(ii)	Disallowance of provision for non-moving stores	Rs.8,28,290/-
(iii)	Disallowance of miscellaneous expenses written off	Rs.9,65,193/-

3. Against the order passed by the Assessing Officer under section 143(3), an appeal was preferred by the assessee before the Id. CIT(Appeals) challenging all the three additions made by the Assessing Officer to its total income. During the course of appellate proceedings before the Id. CIT(Appeals), there was no response from the assessee's side to the notices issued by the Id. CIT(Appeals) fixing the said appeal for hearing from time to time. The Id. CIT(Appeals), therefore, concluded that the assessee was not interested to pursue its appeal filed before him and proceeded to dismiss the same for non-prosecution vide his appellate order dated 03.02.2014 passed ex-parte, which is impugned by the assessee in the present appeal filed before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. As submitted by the Id. counsel for the assessee, there was a change in the address of the assessee-company during the relevant period and although the same was informed to the Department, the Id. CIT(Appeals) continued to send the notices of hearing to the old address apparently because the change in address was not specifically communicated to his Office. Keeping in view this submission made by the Id. counsel for the assessee, we are satisfied that the appeal of the assessee filed before the Id. CIT(Appeals) has been dismissed by him vide his impugned order passed ex-parte without giving any effective opportunity of being heard to the assessee and there is a clear violation of principle of natural justice. We, therefore, set aside the said order of the Id. CIT(Appeals) and remit the matter back to him for disposing of the appeal of the assessee afresh on merit after giving one more opportunity of being heard to the assessee. As undertaken by the Id. counsel for the

assessee at the time of hearing before us, the assessee shall make proper and sufficient compliance before the Id. CIT(Appeals) in order to enable him to dispose of the appeal on merit expeditiously.

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

Order pronounced in the open Court on February 03, 2017.

Sd/-
(S.S. Viswanethra Ravi)
Judicial Member

Sd/-
(P.M. Jagtap)
Accountant Member

Kolkata, the 3rd day of February, 2017

Copies to : (1) ***The Bisra Stone Lime Co. Limited,***
AG-104, Sourav Abasan, 2nd Floor,
Sale Lake, Sector-II,
Kolkata-700 091

(2) ***Assistant Commissioner of Income Tax,***
Circle-5, Kolkata

(3) ***Commissioner of Income Tax(Appeals-IV, Kolkata;***

(4) ***Commissioner of Income Tax- ,***

(5) ***The Departmental Representative***

(6) ***Guard File***

By order

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

Laha/Sr. P.S.