

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

Before Shri P.M. Jagtap, Accountant Member

**I.T.A. No. 1309/KOL/ 2016
Assessment Year: 2010-2011**

Shri Chitta Ranjan Das,.....Appellant
Vill. + Post- Paniparul,
P.S. Egra,
Purba Medinipur-721 448
[PAN: AFNPD 4830 R]

-Vs.-

Income Tax Officer,.....Respondent
Ward-1, Haldia,
Basudevpur, Khanjan Chak,
Purba Medinipur-721 602

Appearances by:

Shri Manish Tiwari, FCA, for the assessee
Md. Gyasuddin, JCIT, D.R., for the Department

Date of concluding the hearing : December 19, 2016

Date of pronouncing the order : December 21, 2016

O R D E R

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-7, Kolkata dated 31.03.2016 passed ex-parte dismissing the appeal of the assessee for non-prosecution.

2. I have heard the arguments of both the sides and also perused the relevant material available on record. The Id. counsel for the assessee has submitted that the non-compliance on the part of the assessee before the Id. CIT(Appeals) was due to the illness of the assessee during the relevant period as a result of which the required information could not be given by the assessee to his Authorized Representative. He has urged that one

more opportunity may, therefore, be given to the assessee by remitting the matter back to the Id. CIT(Appeals). The Id. D.R., however, has raised a strong objection in this regard by pointing out that the appeal of the assessee was fixed for hearing by the Id. CIT(Appeals) on nine different occasions spanning over a period of about two years and still the assessee failed to avail the sufficient opportunity afforded by the Id. CIT(Appeals) to put forth his case. I find some merit in this argument raised by the Id. D.R. At the same time, it is also noted that the Id. CIT(Appeals) vide his impugned order has dismissed the appeal of the assessee mainly for non-prosecution without going into the merit of the issues raised by the assessee, which is not in accordance with sub-section (6) of section 250, which specifically provides that the order of the Id. CIT(Appeals) disposing of the appeal has to be in writing stating therein, the points for determination, the decision thereon and reason for the decision. I, therefore, consider it fair and proper and in the interest of justice to give one more opportunity to the assessee to put forth his case before the Id. CIT(Appeals) subject to payment of cost of Rs.5,000/-. Subject to the said payment, the impugned order of the Id. CIT(Appeals) passed ex parte is set aside and the matter is remitted 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.

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

Order pronounced in the open Court on December 21, 2016.

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

Kolkata, the 21st day of December, 2016

Copies to : (1) ***Shri Chitta Ranjan Das,
Vill. + Post- Paniparul,
P.S. Egra,
Purba Medinipur-721 448***

- (2) **Income Tax Officer,
Ward-1, Haldia,
Basudevpur, Khanjan Chak,
Purba Medinipur-721 602**
- (3) *Commissioner of Income Tax (Appeals)-7, 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.