

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

**Before Shri A.T. Varkey, Judicial Member and
Shri Waseem Ahmed, Accountant Member**

**I.T.A. No. 1294/KOL/ 2016
Assessment Year: 2007-2008**

M/s. Green Merchants Pvt. Limited,.....Appellant
21, B.B. Ganguly Street, 2nd Floor,
Kolkata-700 012
[PAN: AABCG 0629 B]

-Vs.-

Income Tax Officer,.....Respondent
Ward-1(1), Kolkata,
Aayakar Bhawan
P-7, Chowringhee Square,
Kolkata-700 069

Appearances by:

N o n e, for the assessee

Shri Pinaki Mukherjee, JCIT, Sr. D.R., for the Department

Date of concluding the hearing : December 08, 2016

Date of pronouncing the order : December 15, 2016

O R D E R

Per Shri A.T. Varkey, J.M.:

This is an appeal preferred by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-23, Kolkata dated 30.03.2016 for the assessment year 2007-08.

2. None appeared on behalf of the assessee when the case was called for hearing. We, therefore, decided to dispose of the appeal after hearing the Id. D.R. and perusing the material available on record. We find that Ground No. 2 of the assessee's appeal is against the ex-parte order passed by the Id. CIT(Appeals), which, according to the assessee, is in violation of the principle of natural justice. We have heard the Id. D.R. and perused the record. We find that the Id. CIT(Appeals) fixed the case on 08.01.2016 and 29.03.2016 and thereafter he decided the matter on 30.03.2016. According to the Id. CIT(Appeals), the notice of hearing has been returned with a postal remark "not known and left". According to the Id. CIT(Appeals), the assessee is not serious in pursuing the appeal, therefore, he was of the considered opinion not to interfere with the order

passed by the Assessing Officer and dismissed the appeal preferred by the assessee. We are of the considered opinion that the assessee's appeal should have been heard on merit and the legal and factual issues that has been raised by the assessee should have been adjudicated by a speaking order. Without doing so, the valuable appellate right of the assessee is lost, which should not affect the rights of the assessee. We are of the considered opinion that the assessee's appeal should be heard on merit and, therefore, we set aside the order of the Id. CIT(Appeals) and remit the matter back to the Id. CIT(Appeals) with a direction that he must adjudicate the issue on merit in accordance with law after hearing the assessee and by passing a speaking order.

3. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on December 15th, 2016.

**Sd/-
(Waseem Ahmed)
Accountant Member**

**Sd/-
(A.T. Varkey)
Judicial Member**

Kolkata, the 15th day of December, 2016

Copies to : (1) ***M/s. Green Merchants Pvt. Limited,
21, B.B. Ganguly Street, 2nd Floor,
Kolkata-700 012***

(2) ***Income Tax Officer,
Ward-42(4), Kolkata,
P-7, Chowringhee Square,
Kolkata-700 069***

(3) ***Commissioner of Income Tax(Appeals)-23, Kolkata,***

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

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

(6) ***Guard File***

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

Laha/Sr. P.S.