

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

Before Shri P.M. Jagtap, Accountant Member

**I.T.A. No. 1932/KOL/ 2016
Assessment Year: 2007-2008**

M/s. Shakambari Builders (P) Limited,.....Appellant
474, Rabindra Sarani, 1st Floor,
Kolkata-700 005
[PAN: AA ECS 6311 H]

-Vs.-

Assistant Commissioner of Income Tax,.....Respondent
Circle-5, Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069

Appearances by:

Shri Rajeeva Kumar, Advocate, for the assessee
Shri Rajat Kumar Kureel, JCIT, D.R., for the Department

Date of concluding the hearing : February 27, 2017
Date of pronouncing the order : February 27, 2017

O R D E R

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-2, Kolkata dated 28.07.2016 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 filed its return of income for the year under consideration on 31.10.2007 declaring total income of Rs.11,13,910/-. In the assessment completed under section 143(3) vide an order dated 31.12.2009, the total income of the assessee was determined by the Assessing Officer at Rs.17,13,910/- after making addition, inter alia, on account of deemed dividend.

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) and since there was no full compliance on the part of the assessee to the notices issued by him fixing the said appeal for hearing from time to time, the Id. CIT(Appeals) dismissed the same for non-prosecution vide his appellate order passed ex-parte. Aggrieved by the same, the assessee is in appeal before the Tribunal.

4. I 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, the appeal filed by the assessee before the Id. CIT(Appeals) was dismissed by the latter by his appellate order passed ex-parte without giving proper and sufficient opportunity of being heard to the assessee. Moreover, the Id. CIT(Appeals) as per the provision of sub-section (6) of section 250 was required to dispose of the appeal of the assessee vide an order passed in writing stating therein the points for determination, the decision thereon and the reason for the decision. A perusal of the impugned order passed by the Id. CIT(Appeals) shows that the same does not meet these mandatory requirements. I, therefore, set aside the impugned order passed by the Id. CIT(Appeals) and remit the matter back to him for disposing of the appeal of the assessee afresh after giving proper and sufficient opportunity of being heard.

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

Order pronounced in the open Court on February 27, 2017.

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

Kolkata, the 27th day of February, 2017

Copies to : (1) **M/s. Shakambari Builders (P) Limited,**
474, Rabindra Sarani, 1st Floor,
Kolkata-700 005

**(2) Assistant Commissioner of Income Tax,
Circle-5, Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069**

- (3) Commissioner of Income Tax(Appeals)-2, 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.