

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

Before Shri P.M. Jagtap, Accountant Member

**I.T.A. No. 234 /KOL/ 2014
Assessment Year: 2009-2010**

Smt. Madhu Chaurasia,.....Appellant
Prop. of M/s. Shreejee Enterprise,
81A, S.P. Mukherjee Road,
Kolkata-700 026
[PAN : ACSPC 6504 B]

-Vs.-

Income Tax Officer,.....Respondent
Ward-29(3), Kolkata,
Aayakar Bhawan Dakshin,
2, Gariahat Road (South),
Kolkata-700 068

Appearances by:

Shri Subash Agarwal, Advocate, for the assessee
Shri Arindam Bhattacharya, Addl. CIT, D.R., for the Department

Date of concluding the hearing : August 02, 2016

Date of pronouncing the order : August 05, 2016

O R D E R

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-XVI, Kolkata dated 20.11.2013 passed ex parte dismissing the appeal of the assessee.

2. The assessee in the present case is an individual, who is dealing in LPG Cylinders, besides earning income from Marriage Hall and telecom related services. The return of income for the year under consideration was filed by her on 23.09.2009 declaring total income of Rs.3,13,564/-. In the assessment completed under section 143(3) vide an order dated 22.09.2011, the total income of the assessee was determined by the

Assessing Officer at Rs.25,84,780/- after making certain additions/disallowances.

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 the additions/disallowances made by the Assessing Officer to her total income. Since there was no compliance on the part of the assessee to the notices issued by him fixing the appeal of the assessee for hearing from time to time, the Id. CIT(Appeals) dismissed the appeal of the assessee by his appellate order dated 20.11.2013 passed ex parte. Aggrieved by the said order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. I have heard the arguments of both the sides and also perused the relevant material available on record. Before us, the assessee has filed an affidavit explaining the non-compliance before the Id. CIT(Appeals) as under:-

"(2) That I had filed an appeal before the Commissioner of Income Tax (Appeals)-XVI, Kolkata against assessment order dated 22.09.2011.

(3) That the appeal was disposed by the Id. CIT(A), Kolkata by passing an ex parte order due to non-appearance of anyone on my behalf before him.

(4) That Shri N.N. Roy, Advocate, having his office at 7 No. Rabindra Sarani, Kolkata-700 001, was engaged in the instant matter to appear before the Id. CIT(A) and I was under the bonafide belief that proper compliances were made from the end of Shri N.N. Roy, Advocate.

(5) That after receipt of the order of the Id. CIT(A), it came to my knowledge that compliance was not made by Shri N.N Roy, Advocate, due to some unavoidable circumstances.

(6) That I give an undertaking that I shall make due compliance in the abovementioned case if the case is sent back to the file of the lower authorities.

Keeping in view the averments made by the assessee in the affidavit as above, I am satisfied that there was a sufficient cause for the non-appearance on behalf of the assessee before the Id. CIT(Appals) when her appeal was fixed from time of time. I, therefore, set aside the impugned order passed by the Id. CIT(Appels) dismissing the appeal of the assessee ex parte and remit the matter back to him for deciding the appeal of the assessee afresh on merit after giving one more opportunity of being heard to the assessee. As undertaken in the affidavit filed before me, the assessee shall not seek any adjournment and extend all the possible cooperation to the Id. CIT(Appels) in order to enable him to dispose of the appeal expeditiously.

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

Order pronounced in the open Court on August 05, 2016.

Sd/-

(P.M. Jagtap)
Accountant Member

Kolkata, the 5th day of August, 2016

- Copies to :
- (1) **Smt. Madhu Chaurasia,**
Prop. of M/s. Shreejee Enterprise,
81A, S.P. Mukherjee Road,
Kolkata-700 026
 - (2) **Income Tax Officer,**
Ward-29(3), Kolkata,
Aayakar Bhawan Dakshin,
2, Gariahat Road (South),
Kolkata-700 068
 - (3) **Commissioner of Income Tax (Appeals)-XVI, Kolkata;**
 - (4) **Commissioner of Income Tax- ,**
 - (5) **The Departmental Representative**
 - (6) **Guard File**

By order

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