

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "B" KOLKATA**

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

ITA No.1251/Kol/2016 Assessment Year :2010-11

Kamalesh Maity Uttar Darua, Contai, Purba Medinipur Basudevpur, Khanjanchak, Haldia, Pin 721 602 [PAN No. ADSPM 2351 F]	V/s.	ITO Ward-27(2), Holdia
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri K.M. Roy, FCA
प्रत्यर्थी की ओर से/By Respondent	Shri Pravash Roy, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	07-12-2016
घोषणा की तारीख/Date of Pronouncement	21-12-2016

आदेश /O R D E R

PER Waseem Ahmed, Accountant Member:-

This appeal by the assessee is against the order of Commissioner of Income Tax (Appeals)-7, Kolkata dated 05.01.2016. Assessment was framed by ITO Ward-2, Haldia u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') vide his order dated 26.03.2013 for assessment year 2010-11.

2. At the outset, it was observed that Ld. CIT(A) has passed ex parte order without hearing the assessee. Now, before us Ld. AR stated that assessee

failed to appear before Ld. CIT(A) due to some unavoidable problems. So he prayed before the Bench to restore the matter before Ld. CIT(A) and assured to appear before Ld. CIT(A). On the contrary, Ld. DR relied on the order of the CIT(A).

3. Considering the plea of the learned counsel of the Assessee and taking note of the fact that the assessee did not have proper opportunity of being heard before CIT(A). Therefore, in the interest of justice and fair play, we restore this file before the Ld. CIT(A) with the direction to adjudicate the matter afresh as per law after giving the reasonable opportunity of being heard to assessee. It is not needless to mention that assessee should co-operate at the appellate stage.

4. **In the result, assessee's appeal stands allowed for statistical purpose.**

Order pronounced in the open court 21/12/2016

Sd/-
(न्यायिक सदस्य)
(A.T.Varkey)
(Judicial Member)
Kolkata,

Sd/-
(लेखा सदस्य)
(Waseem Ahmed)
(Accountant Member)

*Dkp, Sr.P.S

दिनांक:- 21/12/2016 कोलकाता ।

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-Kamalesh Maity, Uttar Darua, Contai, Purba Medinipur, Baudevapur, Khanjanachak, Haldia, Pin-721 602
2. प्रत्यर्थी/Respondent-ITO Ward-27(2) Haldia
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,
उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।