

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'SMC-1' NEW DELHI**

**BEFORE SMT DIVA SINGH, JUDICIAL MEMBER**

**I.T.A .No.-2281/Del/2015  
(ASSESSMENT YEAR-2011-12)**

Multiplex Capital Ltd., 100/28, Keshav Tower,Rajapur Market, Sector-9, Rohini,Delhi-110085. PAN-AAACM1761B <b>(APPELLANT)</b>	vs	ITO, Ward-5(4), New Delhi.  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Ms. Aruna Mittal, CA</b>
<b>Respondent by</b>	<b>Sh.N.K.Bansal, Sr.DR</b>

<b>Date of Hearing</b>	<b>23.08.2016</b>
<b>Date of Pronouncement</b>	<b>18.10.2016</b>

**ORDER**

The present appeal has been filed by the assessee assailing the correctness of the order dated 23.02.2015 of CIT(A)-6, Delhi pertaining to 2011-12 assessment year. The parties were heard only in respect to Ground No.2 & 3 raised in the present appeal which reads as under:-

2. *"That the order of the Ld.CIT(A) dismissing the appeal without allowing sufficient opportunity to the appellant is bad in law and deserve to be set aside.*
3. *That the Ld.CIT(A) ought to have passed the order on merit of the case instead of dismissing the appeal summarily without referring the assessment records, ground of appeal and statements of facts."*

2. A perusal of the record shows that the CIT(A) after noting that various notices had been issued to the assessee in regard to which neither any adjournment petition was placed nor any one was present, dismissed the appeal of the assessee holding that the assessee is not interested in prosecuting the appeal.

3. The Id.AR has argued that the impugned order deserves to be set aside. The Ld.Sr.DR had no objection to the said request.

3.1. I have heard the rival submission and perused the record. I find that the mode of decision making adoption by the Id.CIT(A) is not in conformity with the Statutory Requirements as set out in sub-section (6) of section 250 of Income Tax Act, 1961. The same is reproduced hereunder for ready-reference:-

**PROCEDURE IN APPEAL**

250. "(1) .....  
(2) .....  
(3) .....  
(4) .....  
(5) .....  
(6) *The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.*  
(6A)....."

3.2. It is seen that the issue of addition by way of a disallowance u/s 14A made by the AO which was under challenge by the assessee was not even addressed by the Id.CIT(A) while passing the order. In view of this blatant and glaring Statutory deficiency the issue is set aside and restored back to the CIT(A) with a direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity of being heard in terms of the statutory mandate.

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

**The order is pronounced in the open court on 18<sup>th</sup> October 2016.**

**Sd/-  
(DIVA SINGH)  
JUDICIAL MEMBER**

*\*Amit Kumar\**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR,  
ITAT NEW DELHI