

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

BEFORE SMT DIVA SINGH, JUDICIAL MEMBER

**I.T.A .No.-4251/Del/2015
(ASSESSMENT YEAR-2009-10)**

Ramlal Bansiwal and Sons, Road No.40, Shahzada Bagh Indl. Area, Delhi. PAN-AAFFR6153A (APPELLANT)	Vs	ITO, Ward-19(1), New Delhi. (RESPONDENT)
---	----	--

Assessee by	Sh. Saurab Goel, CA
Revenue by	Ms. Anima Barnwal, Sr. DR

Date of Hearing	01.08.2016
Date of Pronouncement	29 .09.2016

ORDER

The present appeal has been filed by the assessee assailing the correctness of the order dated 25.02.2015 of CIT(A)-12, New Delhi pertaining to 2009-10 assessment year on various grounds including Ground No.2 which reads as under:-

2. "On the facts and circumstances of the case and in law, the orders passed by the CIT(A) is arbitrary and against the principle of natural justice."

2. A perusal of the record as per para 4 of the impugned order shows that as against the returned income of Rs.2,90,339/- the income was assessed u/s 143(1) vide order dated 06.10.2010 at an income of Rs.4,27,831/- after making addition of Rs.1,37,492/-. The request for rectification u/s 154 of the Assessee was rejected vide order u/s 154 dated 20.06.11. The assessee is in appeal against the rejection of application u/s 154.

3. Various opportunities were provide by the CIT(A) to the assessee to substantiate its claim however the assessee did not appear. The opportunities provided are recorded in para 8.3 to 8.7. As a result of which the CIT(A) concluded that the assessee is deliberately avoiding the appellate proceedings. The assessee is in appeal against the said finding. The Ld.AR submitted that on facts the claim of the assessee was allowable accordingly the

assessee remained under the belief that having placed written submission nothing more was required to be said remained unrepresented. The record shows that the assessee repeatedly sought an adjournment and had at no point of time submitted that the issue be decided on the basis of the written submissions. Accordingly after considering the submissions of the parties before the Bench, the issue is set aside back to the file to the CIT(A) with the direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity of being heard. While so directing it is made clear that it is hoped that the opportunity so provided is not abused by the assessee and is utilized in good faith as failing which the CIT(A) would be at liberty to pass a speaking order in accordance with law on the basis of material available on record.

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

The order is pronounced in the open court on 29th September 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