

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC-I', NEW DELHI**

**Before Sh. N. K. Saini, Accountant Member**

**ITA No. 5256/Del/2016 : Asstt. Year : 2011-12**

Impact Retail Pvt. Ltd., C/o-Mr. Pankaj Sharma, The Mobile Store, Unit No. 308, 309 & 310, DLF Tower-A, Jasola, New Delhi-110025	Vs	DCIT, Circle-11(1), New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AABCI8497F</b>		

**Assessee by : Sh. Rakesh Kumar Ajmani, FCA  
Revenue by : Sh. Ramanjaneyulu, Sr. DR**

<b>Date of Hearing : 28.11.2016</b>	<b>Date of Pronouncement : 28.11.2016</b>
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**ORDER**

This is an appeal by the assessee against the order dated 30.05.2016 of Id. CIT(A)-4, New Delhi.

2. Following grounds have been raised in this appeal:

*“1. That the learned Commissioner of Income Tax (Appeals) has grossly erred both in law and on facts in dismissing the appeal on the grounds that the appellant company was seeking repeated adjournments.*

*2. That the learned Commissioner of Income Tax (Appeals) has erred in law and on facts by ignoring the basic fact that the notices issued by his office had been sent to an incorrect address i.e. Impact Retail Limited c/o Jindal Combines Pvt. Ltd. Essar House, Plot no.247, Udyog Vihar, Phase - IV, Gurgaon - 122001 instead of the address mentioned in Form 35*

*as Impact Retail Limited. C/o Mr. Pankaj Sharma, The Mobile store, Unit no.308, 309 & 310, DLF Tower - A. Jasola, New Delhi - 110025.*

*2.1 That the learned Commissioner of Income Tax (Appeals) has erred in law and on facts in the appeal of the appellant company, without giving any fair and proper opportunity of being heard to the appellant company. Thereby, violating the principles of natural justice.*

*2.2 That the learned Commissioner of Income Tax (Appeals) has further violated the provisions of section 250(6) of the Income Tax Act wherein the statute has directed that the order of the Commissioner of Income Tax (Appeals) disposing the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.*

*2.3 That the learned Commissioner of Income Tax (Appeals) has further erred in law and on facts and violated the directions of the Honorable Supreme Court in the matter of CIT vs. Chennaippa 74 ITR 41 (SC) wherein it was directed that the Commissioner of Income Tax (Appeals) has to pass a speaking order dealing with each ground of appeal. The commissioner of Income Tax (Appeals) should pass an order on merits even though heard ex-parte/or the assessee did not appear.”*

3. Ground No. 2 of this appeal was not pressed, so it is dismissed as not pressed.

4. The grievance of the assessee in this appeal relates to the dismissal of appeal by the Id. CIT(A) *ex-parte* in *limine* without giving opportunity of being heard.

5. During the course of hearing the Id. Counsel for the assessee reiterated the contents of the grounds of appeal and further submitted that the assessee sought an adjournment on 30.05.2016 but the Id. CIT(A) without assigning any reasons rejected the adjournment application and dismissed the appeal in *limine* without discussing the issues raised by the assessee on merit.

6. In his rival submissions the Id. DR strongly supported the order passed by the Id. CIT(A).

7. I have considered the submissions of both the parties and carefully gone through the material available on the record. It is noticed that the assessee sought an adjournment when the case was fixed for hearing before the Id. CIT(A) on 30.05.2016. However, the said adjournment application was rejected without assigning any reason, even it is not mentioned in the impugned order that what were the reasons for seeking adjournment or as to whether those reasons were genuine or not. Moreover, the Id. CIT(A) dismissed the appeal of the assessee in *limine* without discussing the issues on merit. It is well settled that nobody should be condemned unheard as per the *maxim* “*audi alteram partem*”. I, therefore, considering the totality of the facts of the present case, deem

it appropriate to remand this case back to the file of the ld. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

8 In the result, the appeal filed by the assessee is allowed for statistical purposes.

(Order Pronounced in the Court on 28/11/2016)

**Sd/-**  
**(N. K. Saini)**  
**ACCOUNTANT MEMBER**

**Dated: 28/11/2016**

\*Subodh\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**