

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC-A” BENCH : BANGALORE**

**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER**

<b>ITA No.1315/Bang/2016</b>
<b>Assessment years : 2006-07</b>

M/s. Indian Overseas Traders, 1175/32, 4 <sup>th</sup> Cross, Srirampuram, Bengaluru-560021. <b>PAN : AABFI1661G</b>	Vs.	Income Tax Officer, Ward-6(2), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Balram R. Rao, Advocate
Revenue by	:	Shri. AR. V. Sreenivas, JCIT

Date of hearing	:	14.02.2017
Date of Pronouncement	:	17.02.2017

**ORDER**

*Per A.K. Garodia, Accountant Member*

This is an assessee's appeal directed against the order of learned  
CIT (Appeals), Bengaluru-2, Bengaluru dated 22.04.2016 for the  
assessment year 2006-07.

2. The grounds raised by the assessee are as under:-

1. On the facts and circumstances of the case the Ld CIT (A) erred in upholding the order passed under section 143 (1)(a) of the Income Tax Act, 1961.
2. The Ld CIT (Appeals) failed to provide sufficient opportunity to substantiate the "Inordinate delay" [as stated by the CIT(a)] and erred in holding that the Appeal was not maintainable.
3. The Ld CIT appeals erred in upholding the demand of Rs. 2,48,620/- being TDS credit on the ground that the appellant had not furnished the TDS certificates.
4. For that the appellant craves leave to add, amend or withdraw the foregoing grounds of appeal.

3. It was submitted by learned AR of the assessee that the order of the CIT (A) is ex-parte qua the assessee because no notice was served on the assessee by the learned CIT(A) and therefore, in the interest of justice, the matter should be restored back to the file of the CIT(A) for a fresh decision after granting adequate opportunity of being heard to the assessee. The learned DR supported the order of the CIT(A).

4. I have considered the rival submissions. I find that there is no mention in the order of the CIT(A) that any notice of hearing was issued by CIT(A) to the assessee and there was no compliance. It is also seen that in the order of the CIT(A), it is clearly stated that none were present for the assessee. I am of the considered opinion that in the interest of justice, the matter should go back to the file of the CIT(A) for fresh decision after allowing adequate opportunity of being heard to both the sides.

Accordingly, I set aside the order of the CIT(A) and restore back the matter to his file for fresh decision after allowing adequate opportunity of being heard to both the sides. I want to make it clear that I am expressing no opinion on the merit of any issue involved in the present appeal.

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

*Pronounced in the open court on this 17<sup>th</sup> day of February, 2017.*

Sd/-  
**(A.K. GARODIA)**  
**Accountant Member**

Bangalore,  
Dated, the 17<sup>th</sup> February, 2017.

/NS/

Copy to:

1. Appellants
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore.