

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A': NEW DELHI

BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT AND  
SHRI KULDIP SINGH, JUDICIAL MEMBER

ITA No.2938/Del/2014  
Assessment Year : 2006-07

M/s Apsim International  
Private Limited,  
W-4, Sector-11,  
Noida – 201 301.  
PAN : AAECA3702A.  
(Appellant)

Vs. Assistant Commissioner of  
Income Tax,  
Circle,  
Noida.  
(Respondent)

Appellant by : Shri K.P. Garg, CA.  
Respondent by : Shri S.K. Jain, Senior DR.

Date of hearing : 11.01.2017  
Date of pronouncement : 24.01.2017

**ORDER**

**PER G.D. AGRAWAL, VP :-**

This appeal by the assessee for the assessment year 2006-07 is directed against the order of learned CIT(A), Noida dated 24<sup>th</sup> February, 2014.

2. The assessee has raised the following grounds of appeal :-

*"1. The Id. Assessing Officer has erred in making an addition of Rs.3,89,367/- on account of unexplained cash credits. The assessee has duly taken deposits from Shri Tanmay Rastogi of Rs.3,89,367/- vide Ch.No.881404 of Vijaya Bank, Sector-19, Noida.*

*2. Transfer charges received by the Society from outgoing members, by holding that the same is to be included in the taxable income for the relevant assessment year of the appellant on account of receipts from third*

*party not being exempt from income tax by virtue of principle of mutuality.*

*3. That the assessee received the notice dated 21.01.2013 and adjournment was sought from the office of CIT-Appeals.*

*4. That the assessee did not receive any notice dated 27.02.2013 and 21.05.2013, may be due to wrong mentioning of postal address.*

*5. That the Id.CIT Appeals has wrongly dismissed the appeal.*

*6. That the appellant craves leave to add, alter, modify or delete any grounds of appeal at or before the time of hearing."*

3. At the time of hearing before us, the learned counsel for the assessee has pointed out that learned CIT(A) has dismissed the assessee's appeal *in limine* without deciding the same on merits. That only one notice was received by the assessee i.e., notice dated 21<sup>st</sup> January, 2013 and for which the adjournment was sought for by the assessee. No other notice was served upon the assessee. He, therefore, requested for setting aside the matter to the file of the Assessing Officer.

4. Learned DR, on the other hand, relied upon the order of the learned CIT(A).

5. After considering the facts of the case and submissions of both the sides, we deem it proper to set aside the order of learned CIT(A) and restore the matter to his file. Learned CIT(A) has only mentioned the date of issue of notice but it is nowhere mentioned that the notice was actually served upon the assessee. Moreover, learned CIT(A) has also not decided the appeal on merits. In the above circumstances, in our opinion, it would meet the ends of justice if the order of learned

CIT(A) is set aside and matter restored to his file. We order accordingly and direct him to allow adequate opportunity of being heard to the assessee and thereafter adjudicate the grounds raised before him in accordance with law.

6. In the result, the appeal of the assessee is treated to be allowed for statistical purposes.

Decision pronounced in the open Court on 24.01.2017.

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

Sd/-  
**(G.D. AGRAWAL)**  
**VICE PRESIDENT**

VK.

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1. Appellant : **M/s Apsim International Private Limited,  
W-4, Sector-11, Noida – 201 301.**
2. Respondent : **Assistant Commissioner of Income Tax,  
Circle, Noida.**
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar