

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**I.T.A. No. 803/Del/2016  
Assessment Year: 2011-12**

M/S TARAK INDIA PVT. LTD. vs. DCIT, CIRCLE 16(1)  
23/23, EAST PATEL NAGAR, NEW DELHI  
NEW DELHI – 110 008  
(PAN: AABCT6501D)  
**(ASSESSEE)** **(RESPONDENT)**

**Assessee by:** Ms. Nancy Gopalia, CA  
**Revenue by:** Sh. S.S. Rana, CIT(DR)  
**ORDER**

**PER H.S. SIDHU, JM**

This appeal is filed by assessee against the Order dated 21.12.2016 passed by the Ld. CIT(A)-9, New Delhi relating to Assessment Year 2008-09 on the following grounds:-

*“1. The Ld. CIT(A) has erred in law and in fact and circumstances of the case by passing the order dated 21.12.2015 under section 250 of the I.T. Act, 1961 in gross violation of the principles of natural justice.*

2. *The Ld. CIT(A) has erred on facts and circumstances of the case and in law in regard to confirming the penalty imposed by the DCIT, New Delhi under section 271(1)(c) of the Act amounting to Rs. 3,75,613/-.*

3. The Ld. CIT(A) has erred on facts of the case by levying a penalty for concealment of income under section 271(1)(c) of the Act.

Appellant has duly disclosed the amount in its income tax return and financials and the same are duly validated by auditor's report. Therefore the penalty levied by AO and confirmed by Ld. CIT(A) should be annulled.

4. Appellant prays that penalty imposed by the AO and confirmed by CIT(A) should be deleted as complete disclosure of facts was made in the income tax return and there was no intention to evade tax.

5. The appellant prays that he may be allowed to add, amend, alter or forego any of

the above grounds of appeal as the circumstances may warrant.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of brevity.

3. At the time of hearing, Ld. Counsel of the Assessee has stated that Ld. CIT(A) has not provided sufficient opportunity of hearing to the assessee and passed the ex parte order, therefore, he requested that the issues involved in the appeal may be set aside to the file of the Ld. CIT(A) to decide the same afresh, after giving adequate opportunity of being heard to the assessee.

4. On the contrary, Ld. DR relied upon the order passed by the Ld. CIT(A) and stated that assessee was given sufficient opportunity for substantiating his claim, but he could not avail the same. Therefore, the order of the authorities below especially the impugned order may be upheld and appeal of the assessee may be dismissed.

5. We have heard both the parties and perused the records, especially the impugned order passed by the Ld. CIT(A). After examining the impugned order, we are of the considered view that Ld. CIT(A) has passed the ex parte order and did not provide

sufficient opportunity, as a result thereof, the assessee could not substantiate its case before the Ld. CIT(A). Therefore, in the interest of justice, we set aside the issues in dispute to the file of the Ld. CIT(A) with the directions to decide the same afresh, under the law, after giving adequate opportunity of being heard to the assessee.

6. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the Open Court on 05/10/2017.

**Sd/-**

**[PRASHANT MAHARISHI]  
ACCOUNTANT MEMBER**

**Sd/-**

**[H.S. SIDHU]  
JUDICIAL MEMBER**

*Date 05/10/2017*

**“SRBHATNAGAR”**

**Copy forwarded to: -**

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches