

आयकर अपीलीय अधिकरण, दिल्ली, न्यायपीठ, 'जी', दिल्ली।

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "G", DELHI**

श्री एन.के. सैनी, लेखा सदस्य एवं
श्री जोगिन्दर सिंह, न्यायिक सदस्य, के समक्ष

**Before Shri N.K. Saini, Accountant Member and
Shri Joginder Singh, Judicial Member,**

**ITA No.5782 /Del/2015
Assessment Year: 2012-13**

State Bank of India, 1-New Cannt Road, Dehradun, Uttrakhand-248001	बनाम/ Vs.	(1)CIT(Appeals), Income Tax Office, Subhash Road, Dehradun (2) ITO(TDS), 3 rd Floor, Room No. A-49, Aayakar Bhavan, 13A Subhash Road Dehradun (Uttrakhand)
(निर्धारिती / Assessee)		(राजस्व /Revenue)
PAN. No. AAACS8577K		

निर्धारिती की ओर से / Assessee by	Shri Vivek Gupta
राजस्व की ओर से / Revenue by	Shri Kaushlendra Tiwari-Sr. DR

सुनवाई की तारीख / Date of Hearing :	07/11/2017
आदेश की तारीख /Date of Order:	07/11/2017

आदेश / O R D E R

Per Joginder Singh (Judicial Member)

The assessee is aggrieved by the impugned order dated 09/07/2015 of the Ld. First Appellate Authority, Dehradun, on the grounds as raised in the grounds of appeal. Broadly, the assessee has contended that proper opportunity of hearing was not provided by the Ld. CIT(A)/Assessing Officer.

2. During hearing, Shri Vivek Gupta, ld. Counsel for the assessee, invited our attention to the assessment order as well as the impugned order with respect to not providing due opportunity of being heard to the assessee, therefore, it was requested that the matter may be sent back to the file of the Ld. AO for fresh adjudication. The ld. DR, Shri Kaushlendra Tiwari, defended the impugned order by contending that the opportunity was provided to the assessee which was not availed by assessee itself. It

was also pleaded that it was the duty of the assessee to make effective representation, on the appointed date before the concerned authorities.

2.1. We have considered the rival submissions and perused the material available on record. The facts, in brief, are that the assessee bank is engaged in providing various services of banking/financial services to the public at large. As per the assessee, the tax deducted at source was duly deposited in the state ex-chequer within the prescribed time. However, the Ld. AO required the assessee bank to furnish the details of employees, who availed leave travel concession for the FY 2011-12, which were also provided. However, the Ld. AO initiated proceedings u/s 201/201(1A) of the Income Tax Act, 1961 (hereinafter the Act) and treated the assessee in default, creating the tax liability of Rs.10,51,045/- (including interest of Rs.1,12,612/-) at the rate of 30% stating that the case of the assessee was barred by time on 31/03/2014.

2.2. On appeal, before the Ld. CIT(A), the stand taken in the assessment order was affirmed against which

the assessee is in appeal before this Tribunal. If the observations made in the assessment order/impugned order are kept in juxtaposition and analyzed, we find that (as is evident from assessment order itself) the assessee provided the part details and on 24/03/2014, the assessee could not appear, therefore, the assessment was framed. Likewise, the ld. First Appellate Authority observed that due opportunity was provided to the assessee, which was not availed in the right spirit for the reason based known to the assessee. Without going into much deliberation, we are of the view that no person should be condemned unheard. Even otherwise, mandate of Article-265 of the Constitution of India is only due taxes has to be levied/collected, Thus, considering the totality of facts, we deem it appropriate to send this file to the file of the Ld. AO to adjudicate the appeal of the assessee afresh on merit. Needless to mention here that the assessee be provided due opportunity of being heard with further liberty to furnish necessary evidence, if any, to substantiate its claim. Resultantly, the appeal of the assessee is allowed for statistical purpose only.

Finally, the appeal of the assessee is allowed for statistical purpose only.

This order was pronounced in the open court in the presence of the ld. representative from both sides at the conclusion of the hearing on 07/11/2017

Sd/-

(N. K. Saini)

लेखा सदस्य / ACCOUNTANT MEMBER

Delhi; दिनांक Dated : 07/11/2017

Shekhar, P.S./नि.स.

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Dehradun.
4. आयकर आयुक्त / CIT(A)- , Dehradun
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,/ DR, ITAT, Delhi
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण,/ ITAT, Delhi