

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

BEFORE SHRI B.P. JAIN, ACCOUNTANT MEMBER, AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No. 2784/DEL/2016 [A.Y. 2010-11]

M/s Hospital Management Group Orthonova
Plot No. 5 FC -29,
Geetanjalu, Near Malviya Nagar
Metro Station Gate No. 1
New Delhi

Vs. The I.T.O
Ward 37(2)
New Delhi

PAN : AABCN 5053 E

[Appellant]

[Respondent]

Date of Hearing : 27.11.2017

Date of Pronouncement : 29.11.2017

Assessee by : None

Revenue by : Shri Arun Kumar Yadav, Sr. DR

ORDER

PER B.P. JAIN, ACCOUNTANT MEMBER,

This appeal of the assessee arises from the order of the ld.
CIT(A)-20, New Delhi vide order dated 03.03.2016 for A.Y. 2010-11.

2. The assessee has raised as many as 6 grounds of appeal. Mainly
Ground Nos. 3 and 4 have been pressed, which are reproduced herein
below:

“3. The Assessing Officer has erred in passing the impugned penalty order without issuing show cause notice specifically proposing to make illegal addition nor any effective opportunity of hearing was provided to the assessee. The ld. CIT(A) has erred in upholding the unlawful action of the Assessing Officer and hence the impugned order passed in violation of natural justice is liable to be quashed.

4. The Assessing Officer has erred in passing the impugned penalty order without issuing show cause notice specifically proposing to make any addition nor any effective opportunity of hearing was provided to the assessee. The ld. CIT(A) has erred in upholding the unlawful action of the Assessing Officer and hence the impugned order passed in violation of natural justice is liable to be quashed.

3. None appeared on behalf of the assessee nor any adjournment was filed. So we heard the ld. DR and perused the relevant material on record.

4. At the very outset, it was brought to our notice by the ld. DR that the case has been decided ex parte by the ld. CIT(A) and therefore, it will be in the interest of justice to set aside the matter to the file of the ld. CIT(A).

5. We have considered the submissions of the ld. DR and find that it is a matter of fact that as per reading of para 5.2 of the impugned order, none appeared on behalf of the appellant despite service of notice sent to it the address as per record. Therefore, the ld. CIT(A) in

para 5.3 has held that he has no option but to adjudicate the appeal on merit. Therefore, he decided the issue *ex parte* qua the assessee by allowing some relief. Under the facts and circumstances of the case and in the interest of justice, we are of the considered opinion that one more opportunity should be given to the assessee who has raised a specific ground of appeal, though none was present before us too. We, therefore, set aside the matter to the file of the Id. CIT(A) who will decide the case *de novo* after affording adequate opportunity of being heard to the assessee. Thus, grounds raised by the assessee are set aside to the file of the Id. CIT(A). Accordingly, Ground Nos 1 and 2 raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee in ITA No. 2784/DEL/2014 is allowed.

The order is pronounced in the open court on 29.11.2017.

Sd/-

[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

Sd/-

[B.P. JAIN]
ACCOUNTANT MEMBER

Dated: 29th November, 2017

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi