

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Sh. N. K. Saini, Accountant Member

ITA No. 5459/Del/2017 : Asstt. Year : 2005-06

Ethnic Overseas Pvt. Ltd., C/o M/s RRA Taxindia, D-28, South Extension, Part-I, New Delhi-110049	Vs	Income Tax Officer, Ward-11(2), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AABCE2286		

**Assessee by : Dr. Rakesh Gupta, Adv. &
Sh. Somil Agarwal, Adv.
Revenue by : None**

Date of Hearing : 19.12.2017	Date of Pronouncement : 20.12.2017
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ORDER

This is an appeal by the assessee against the order dated 24.11.2008 of Id. CIT(A)-XIII, New Delhi.

2. The main grievance of the assessee in this appeal relates to the confirmation of addition of Rs.22,50,000/- made by the AO by passing the *ex-parte* order.

3. During the course of hearing nobody was present on behalf of the department and the Id. Counsel for the assessee submitted that the Id. CIT(A) did not give proper opportunity of being heard and passed the *ex-parte* order in slip shod manner without discussing the issues on merit. It was further submitted that the AO also decided the issue *ex-parte* u/s 144 of the Income Tax Act, 1961 without serving the notice of hearing on the assessee.

4. I have considered the submissions of the ld. Counsel for the assessee and perused the material available on the record. In the present case, it is noticed that the AO as well as the ld. CIT(A) passed their respective orders *ex-parte*. The ld. CIT(A) although mentioned that during the course of hearing the appellant was provided opportunities to submit details and arguments. On the contrary, he mentioned on the face of the order that nobody was present either on behalf of the assessee or the department. It is well settled that nobody should be condemned unheard as per the *maxim "audi alteram partem"*. I, therefore, by keeping in view the principles of natural justice, deem it appropriate to set aside the impugned order and remand the issue back to the file of the ld. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

(Order Pronounced in the Court on 20/12/2017)

Sd/-
(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 20/12/2017

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR