

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

**BEFORE SHRI R.S. SYAL, VICE PRESIDENT
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.1370/Del/2018
Assessment Year: 2014-15**

Shri Dev Arora, Flat No.226, Surydaya Apartments,Pocket -08, Sector 12, Dwarka, Delhi-110075. PAN: ADIPA6832D	vs	ACIT, Circle – 43(1),
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Appellant by	Shri R.S. Singhvi, CA
Respondent by	Shri Vijay Kumar Jiwani

Date of Hearing	27.06.2018
Date of Pronouncement	29.06.2018

ORDER

PER K. NARASIMHA CHARY, J.M.

This is an appeal by the assessee against the order dated 29.01.2018 in Appeal No. 10269/2016-17 passed by the Ld. Commissioner of Income- tax (Appeals)-15, New Delhi (for short hereinafter called as "Ld. CITA").

2. Brief facts of the case are that the assessee is an individual and during the year under consideration he was engaged in the business of construction and sale of flats. He has filed the return of income for the Assessment Year 2014-15 on 24.03.2015 declaring a total income of Rs.16,48,480/-. Assessment order reads that during the scrutiny the assessee was issued notices under section 143(2) and 142(1) of the Income-tax Act, 1961 on several occasions but

there was representation for the assessee on some dates and only part of reply was submitted on behalf of the assessee to the said notices. Having no other option, Ld. AO observes that, he was compelled to complete reassessment proceedings without waiting further on the basis of the documents available on records, as the matter was going to be time barred.

3. Same is the case in appeal also. Ld. CIT(A) observed that in spite of granting opportunities on 27/07/2017, 11/08/2017, 03/10/2017, 16/10/2017, 22/11/2017 and 14/12/2017, the assessee failed to avail the opportunity but sought adjournments without any basis. Ld. CIT(A), therefore, proceeded ex parte and while referring to the findings of the Ld. AO, he upheld the same and dismissed the appeal. The assessee is, therefore, before us in this appeal seeking the orders of the authorities below to be set aside.

4. It is the submission of the Ld. AR that both the authorities below failed to appreciate the evidence produced before them and the Ld. AO proceeded with the matter in view of the time-limit to complete the assessment. So also the Ld. CIT(A)'s failure to appreciate the facts of the case in their proper perspective. It is submitted that if an opportunity is granted to the assessee, without seeking any adjournment, the assessee is ready to cooperate with the Department to get the tax liability determined as per law.

5. Ld. DR vehemently opposed the submissions made on behalf of the assessee and submitted that the assessee was granted sufficient opportunity by the authorities below and the assessee does not deserve any further indulgence at the level of this forum.

6. We have gone through the record. It could be seen from the assessment order that the notice under section 143(2) was issued on 23/05/2016 and the

assessment order was passed on 30/12/2016. The entire episode was concluded within a period of 4 months. Ld. AO fairly recorded in his order that in view of the fact that the matter is going to be time barred on 31/03/2016, he proceeded to decide the matter basing on the material available on record.

7. In these circumstances, we are of the considered opinion that affording an opportunity to the assessee would further the cause of justice. Above all, the purpose of the entire exercise is to determine the just tax liability of the assessee. With this view of the matter we deem it just and proper to set aside the orders of the authorities below and to restore the matter to the file of the Ld. AO for deciding the issue afresh, after giving an opportunity to the assessee. Needless to say that it is the last opportunity and the assessee must cooperate with the Ld. AO in determination of his tax liability. We, accordingly, remand the matter to the file of the Ld. AO for compliance with this direction.

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

Order pronounced in the open court on 29th June, 2018

Sd/-
(R.S. SYAL)
VICE PRESIDENT

sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Dated: 29.06.2018

VJ

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

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