

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

Before Sh. N. K. Saini, AM and Sh. Sudhanshu Srivastava, JM

ITA No. 3961/Del/2015 : Asstt. Year : 2007-08

ITA No. 3962/Del/2015 : Asstt. Year : 2008-09

Thomas International Publishing Co. India Pvt. Ltd., L-41, Connaught Place, New Delhi-110001	Vs	Dy. Commissioner of Income Tax, Circle-16(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAAC78392F		

Assessee by : Sh. Aziz Khan, Adv.

Revenue by : Sh. K. Tiwari, Sr. DR

Date of Hearing : 25.07.2018

Date of Pronouncement : 27.07.2018

ORDER

Per N. K. Saini, AM:

These appeals by the assessee are directed against the separate orders each dated 10.03.2015 of Id. CIT(A)-19, New Delhi.

2. Since, the appeals relate to the same assessee, having common issues, were heard together, so, these are being disposed off by this consolidated order for the sake of convenience and brevity.

3. The only grievance of the assessee in these appeals relate to the confirmation of penalty of Rs.4,52,360/- for the assessment year 2007-08 and Rs.3,86,614/- for the assessment year 2008-09 respectively levied by the AO u/s 271(1)(c) of the Income Tax Act, 1961.

4. Facts of the cases in brief are that the AO levied the impugned penalties for the reasons that the disallowances made by the AO were upheld by the Id. CIT(A).

4. Being aggrieved the assessee carried the matter to the Id. CIT(A) who sustained the penalties by passing the *ex-parte* orders. He simply stated that the assessee did not comply to the notices issued for hearing and that the notices sent by Speed Post had not returned unserved.

5. Now the assessee is in appeal. During the course of hearing, the Id. Counsel for the assessee submitted that no notice for hearing was served upon the assessee, therefore, the opportunity of being heard was not provided to the assessee and the impugned orders had been passed in violation of the principles of natural justice.

6. In his rival submissions, the Id. Sr. DR supported the impugned orders passed by the Id. CIT(A) and further submitted that the ample opportunities of being heard were provided by the Id. CIT(A), however, the assessee did not cooperate and never turned up whenever the cases were fixed for hearing, so, there was no alternative except to decide the appeals of the assessee *ex-parte*.

7. We have considered the submissions of both the parties and perused the material available on the record. In the present case, it is an admitted fact that the impugned orders were passed by the Id. CIT(A) *ex-parte*, however, it is not mentioned that the notice for

hearing were served upon the assessee. He simply stated that as per the India Post Website, the last notice was duly delivered. However, it was not brought on record that the notice for hearing was served upon whom, whether on the assessee or any other person. On the contrary, the Id. Counsel for the assessee stated that no notice for hearing was served upon the assessee. It is well settled that nobody should be condemned unheard as per the *maxim* “*audi alteram partem*”. We, therefore, by keeping in view the principles of natural justice, deem it appropriate to set aside this issue back to the file of the Id. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

8. In the result, appeals of the assessee are allowed for statistical purposes.

(Order Pronounced in the Court on 27/07/2018)

Sd/-
(Sudhanshu Srivastava)
JUDICIAL MEMBER

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

Dated: 27/07/2018

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR