

**IN THE INCOME TAX APPELLATE TRIBUNAL
'SMC', CHANDIGARH**

BEFORE MS. DIVA SINGH, JUDICIAL MEMBER

ITA No. 366/Chd/2018
(Assessment Year: 2013-14)

M/s Spectra Real Estates Pvt. Ltd.
H.No. 48, Sector 27A
Chandigarh
PAN No. AAFCS2971N

Vs.

I.T.O.
Ward 5(3)
Chandigarh

(Appellant)

(Respondent)

Assessee By : Shri. Sachin Jain, CA
Revenue By : Shri Manoj Kumar, Sr.DR
Date of hearing : 18/06/2018
Date of Pronouncement : 26.07.2018

ORDER

PER DIVA SINGH

The present appeal has been filed by the Assessee assailing the correctness of the order dated 17/08/2017 of CIT(A)-2, Chandigarh pertaining to assessment year 2013-14 on various grounds.

2. However, the parties were heard only in respect of the prayer made qua Ground No. 1 in the present appeal which reads as under:

"1. That the Ld. CIT(A) is not justified in not giving proper opportunity of hearing, which is against the natural justice and the case be set aside.

3. The Ld. AR inviting attention to the impugned order submitted that the notice stated to have been sent by the Ld. CIT(A) was not received by the assessee probably on account of change of the address of the assessee. It was his submission that infact the impugned order also had not been received and it was only when the penalty notice was received that the assessee was made aware of the order having been passed. Accordingly it was his limited prayer that in the interests of substantial justice, the impugned order may be set aside to the file of the Ld. CIT(A) accepting the oral undertaking given by him. Attention was invited to the paper book filed which contained copy of the letter dt. 21/03/2018 filed before the Ld. CIT(A) for supplying copy of the impugned order.

4. The Ld. DR ,on going through the record submitted that he has no objection if an opportunity of being heard is granted.

5. I have heard these submissions and perused the material available on record. The present order has been passed ex-parte where due to change of address etc. the assessee, it is pleaded by the ld. AR, remained unrepresented. The ld. AR has given his oral undertaking that in the eventuality of remand of the issue back to the file of the CIT(A), he would undertake that the assessee is represented and makes proper and full compliances. It is noted that the said prayer of the assessee has not been objected to by the ld. Sr.DR on considering the record. Accordingly, considering the facts, circumstances and the submissions of the parties before the Bench, the impugned order is set aside back to the file of the CIT(A) with the direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity of being heard.

6. A perusal of the record shows that notice presumably may have been sent to the address mentioned at column No. 4 in the impugned order which is as under :

M/s Spectra Real Estates Pvt. Ltd.,
SCO 67-68, Sector 46-C,
Chandigarh.

6.1 In the Memo of Appeal filed by the assessee, the address given in column No. 10 is as under :

M/s Spectra Real Estates Pvt. Ltd.,
House No. 48, Sector 27-A,
Chandigarh.

6.2. The CIT(A) is advised to give the notice to the assessee for next date of hearing on the new address.

7. While so directing, it is made clear that in the eventuality the assessee abuses trust reposed and fails to participate fully and fairly before the CIT(A), the CIT(A) would be at liberty to pass the order on the basis of material available on record. Said order was pronounced in the Open Court at the time of hearing itself.

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

Order Pronounced in the Open Court on 26th July,2018.

Sd/-

(DIVA SINGH)
JUDICIAL MEMBER

Dated :

AG/Poonam

Copy to: The Appellant, The Respondent, The CIT, The CIT(A), The DR