

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

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No.2067/DEL/2018  
[Assessment Year: 2007-08]

Stenley Apparels Pvt Ltd.  
5/25, WEA, Karol Bagh  
New Delhi

Vs.

The I.T.O  
New Delhi

PAN : AEJPV 0403 K

[Appellant]

[Respondent]

Date of Hearing : 04.09.2018  
Date of Pronouncement : 05.09.2018

Assessee by : Shri Alok Bajaj, CA  
Revenue by : Shri Anil Kumar Sharma, Sr. DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:**

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals]-8, New Delhi dated 02.08.2016 pertaining to assessment year 2007-08.

2. The sum and substance of the grievance of the assessee is that no proper and reasonable opportunity of being heard was given and the first appellate authority further erred in not appreciating the evidence furnished during the appellate proceedings.

3. Briefly stated, the facts of the case are that assessment was framed u/s 144/147 of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'] vide order dated 09.09.2014. On the finding that though the notices were issued by the Assessing Officer, but the same were returned back unserved, finally, one notice was served upon the assessee through the Inspector, providing final opportunity. In response to this notice, the assessee did attend the assessment proceedings. The Assessing Officer asked the assessee to furnish certain details/documents. Again, on the next date of hearing, nobody attended and the assessment was framed ex-parte at an assessed income of Rs. 21,23,218/-.

4. The assessee strongly agitated the matter before the CIT(A). The first appellate authority framed the appellate order as nobody responded to the notice issued by his office.

5. Before me, the ld. AR stated that since there was change of management in F.Y. 2005-06, it was the new management which has been doing the business of owning and operating a hotel and the assessee company has since been running its hotel business under the name of Paras Hotel at Karol Bagh address. It is the say of the ld. AR that with the change in the management, address and nature of business, the assessee could not attend the proceedings before the lower authorities and could not substantiate its case properly.

6. Per contra, the ld. DR stated that several notices were issued and, in fact, one of the notices of the Assessing Officer was served through an Inspector, therefore, it cannot be said that no proper opportunity was given by the lower authorities.

7. I have carefully considered the facts of the case. It is not in dispute that the management of the appellant company has changed. Hence, it appears that not only the management has changed, but also the nature of business has changed. Therefore, in the interest of justice and fair play, I deem it fit to restore the entire issues to the file of the Assessing Officer. The Assessing Officer is directed to decide the issues afresh after giving reasonable opportunity of being heard to the assessee. The assessee is directed to cooperate with the Assessing Officer and file necessary details/documents/evidences sought by the Assessing Officer. The Assessing Officer is, accordingly, directed to decide the issues on the basis of evidences furnished by the assessee.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

**The order is pronounced in the open court on 05.09.2018.**

Sd/-  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: September, 2018

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	04.09.2018
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	04.09.2018
Date on which the fair order is placed before the Dictating Member for pronouncement	05.09.2018
Date on which the fair order comes back to the Sr.PS/PS	05.09.2018
Date on which the final order is uploaded on the website of ITAT	05.09.2018
Date on which the file goes to the Bench Clerk	07.09.2018
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	