

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCHES 'A', CHANDIGARH**

BEFORE MS. DIVA SINGH, JUDICIAL MEMBER
AND MS. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

ITA No. 48/CHD/2018
Assessment Year: 2011-12

M/s Himachal Salt Suppliers,
SCF No. 427, 2nd Floor,
Motor Market,
Mani Majra.
PAN : AAAFH4968E

V

The ITO,
Ward 3(4),
Chandigarh.

(Appellant)

(Respondent)

Appellant by : Shri Vineet Krishan
Respondent by : Shri Geetinder Mann, JCIT

Date of hearing : 06.08.2018

Date of Pronouncement : 04.09.2018

ORDER

PER DIVA SINGH

The present appeal has been filed by the assessee assailing the correctness of the order dated 26.10.2017 of CIT(A)-2 Amritsar camp at Chandigarh pertaining to the 2011-12 assessment year on various grounds on merit, however, parties were heard only on ground Nos. 1 to 4 in the present appeal which read as under :

1. *That the Hon'ble Commissioner of Income Tax (Appeals) gravely erred in deciding the appeal ex parte without offering any opportunity of being heard to the appellant. No notice of hearing was served on the appellant which is against the principles of natural justice.*
2. *That the Permanent Account Number of the appellant is mentioned in Form No. 35 and the returns are being filed using the same Permanent Account Number with the address of the appellant which is SCF No. 427, 2nd Floor, Motor Market, Manimajra. No effort was made to serve the notice of hearing on the appellant at that address.*
3. *That the Hon'ble Commissioner of Income Tax (Appeals), has decided the appeal ex parte for non-prosecution of appeal by the appellant which is beyond the scope and powers of Hon'ble Commissioner of Income Tax (Appeals).*
4. *That the Hon'ble Commissioner of Income Tax (Appeals) has dismissed the appeal ex parte without going into the merits of the case. The order of the Hon'ble Commissioner of Income Tax (Appeals) needs to be set aside and appeal restored back to the file of the Hon'ble Commissioner of Income Tax (Appeals) for decision on merits.*

2. The ld. AR submitted that none of the notices stated to have been sent by the CIT(A) were received by the assessee. It was his submission that the address continues to remain the same and the notice from the ITAT has been received by the assessee. Accordingly, it was his prayer that the impugned order may be set aside to the file of the CIT(A) accepting his oral undertaking that the assessee shall participate in the proceedings before the CIT(A).

3. The ld. DR though posed no objection to the remand, however submitted that the notices have been sent and the assessee has failed to appear.

4. We have heard the rival submissions and perused the material on record. It is seen that the impugned order has been passed dismissing the appeal of the assessee in limine on the grounds of non-prosecution. We find that the disposal of assessee's appeal in the aforementioned manner is not in terms of the statutory requirements. Sub-Section 6) of Section 250 of the Income Tax Act,1961 mandates that the Commissioner(Appeals) while deciding the appeal is required to *dispose the appeal stating points for determination; the decision thereon and the reason for the decision.* We find that the CIT(A) has not followed the said statutory mandate. Accordingly, accepting the oral undertaking given by the ld. AR, the impugned order is set aside back to the file of the CIT(A) with a direction to pass a speaking order in accordance with law. Needless to say that assessee shall be afforded a reasonable opportunity of being heard. It is also made clear that in the eventuality, the assessee abuses the trust reposed, the ld. CIT(A) would be at liberty to pass an order on the basis of the material available on record. Said order was pronounced in the Open Court at the time of hearing itself.

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

Order pronounced in the Open Court on 04.09. 2018.

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

'Poonam'
Copy to:

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

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER

Asstt. Registrar
ITAT, Chandigarh.