

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC', NEW DELHI  
BEFORE MS. DIVA SINGH, JUDICIAL MEMBER  
ITA No. 2918/Del/2018  
Assessment Year: 2014-15**

Dolly Garg, C-266, Vivek Vihar, Delhi	<b>Vp s.</b>	Income Tax Officer, Ward-55(5), New Delhi.  <b>PAN : AAATC6332M</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Ms. Preeti Choudhary, ACA
Respondent by	Sh. S.L. Anuragi, Sr. D.R.
Date of hearing	18-12-2018
Date of pronouncement	20-12-2018

**ORDER**

The present appeal has been filed by the assessee assailing the correctness of the order dated 21.2.2018 of CIT(A)-XXV, New Delhi pertaining to 2014-15 on various grounds. However, at the time of hearing an adjournment application was moved on behalf of the assessee. Considering ground no. 2 and 3 raised by the assessee in the present appeals the adjournment request was rejected and the parties were heard. The specific grounds read as under:-

*“2. That the appellant prays that the order passed is also erroneous, illegal & against the principles of natural justice & equity.*

*3. That the appellant prays that adequate opportunity of being heard has not been granted to the appellant, which is against the principles of natural justice.”*

3. A perusal of the record shows that additions made in the assessment order were challenged in appeal before the CIT(A). As per the statement of facts extracted at page 2 of the impugned orders the assessee is stated to be a house wife who was confined to bed rest. The assessee's counsel instead appeared before the Assessing Officer. Lack of opportunity was pleaded before the CIT(A) leading to the additions on the grounds of long term capital gain apart from commission. The assessee carried the issue before the CIT(A). On reading from pages 4 to 9 of the impugned order, it is evident that the facts as appreciated by the Assessing Officer are referred to initially up to page 4 and thereafter from pages 5 to 9, there is a discussion on case laws, by the CIT(A) on the basis of which conclusions have been arrived at in para 5 at pages 1 to 12. On a reading from the order, the learned Sr. DR was required

to point out as to whether the assessee has been heard by the CIT(A) before passing of the order. In the absence of any discussion on the arguments advanced on behalf of the assessee and consequently their consideration the learned Sr. DR could only rely upon the facts as addressed on pages 2 and 4 which is a summing up of facts as noticed by the Assessing Officer. Accordingly, in the absence of any discussion on the arguments advanced on behalf of the assessee considering the grounds raised after hearing the learned AR. Ground no. 2 and 3 are allowed. 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 after giving the assessee a reasonable and effective opportunity of being heard. Said order was pronounced in the open court at the time of hearing itself.

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

**The order is pronounced in the open court at the time of hearing itself on 20<sup>th</sup>  
December, 2018.**

*Sd/-*  
**(DIVA SINGH)**  
**JUDICIAL MEMBER**

*SH*

Copy forwarded to:

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

ASSISTANT REGISTRAR,  
ITAT NEW DELHI

		Date	
1.	Draft dictated on	18.12.2018	PS
2.	Draft placed before author	19.12.2018 / 20.12.2018	PS
3.	Draft proposed & placed before the second member		JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS		PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk		PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		
11.	Date of uploading	.12.2018	