

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

**BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER
&
SHRI N.S.SAINI, ACCOUNTANT MEMBER
ITA No.-1341, 2166 /Del/2018
(Assessment Year: 2013-14, 2014-15)**

M/s. Sarika Industries C/o. M.K.Bhatt & Co. 302, E-10- 12, Jawahar Park, Laxmi Nagar Delhi 110 092 PAN :	vs	ITO Ward-59(2) New Delhi
Assessee by	Shri M.K.Bhatt, CA	
Revenue by	Shri Gurmel Singh Sr. DR & Sh. S.S.Rana, CIT(DR)	

Date of Hearing	19.12.2018
Date of Pronouncement	14.01.2019

ORDER

PER N.S.SAINI, ACCOUNTANT MEMBER :

These two appeals filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-XXV, New Delhi for assessment year 2013-14 dated 15.12.2017 and Ld. Commissioner of Income Tax (Appeals)-XIX, New Delhi for assessment year 2014-15 dated 17.08.2017.

2. In both the appeals the common issue involved is that the Commissioner of Income Tax (Appeals) erred in not allowing deduction u/s 80IC of the Act claimed by the assessee in its return of income for the years under appeal on the ground that copy of auditor's report in Form 10CCB was not filed by the assessee electronically with the return of income.

3. The facts of the case are that in the assessment year 2013-14 appeal of the assessee came to be dismissed by the Commissioner of Income Tax (Appeals) on the ground that the assessee made no compliance to the notice of hearing issued for hearings of appeal on 19.05.2017, 17.07,2017, 29.09,2017 and 13.12.2017. In the assessment year 2014-15, the Commissioner of Income Tax (Appeals) dismissed the appeal of the assessee on the ground that the audit report in form 10CCB was mandatorily required to be uploaded along with return of income was not done by the assessee.

4. The Authorised Representative of the assessee, Shri M.K.Bhatt, CA argued and submitted that appeal of the assessee should be restored back to the file of the Commissioner of Income Tax (Appeals) for adjudicating the same afresh as appeal for assessment year 2013-14 was dismissed without adjudicating the merits of the case only on the ground that the assessee failed to put in appearance on the dates of hearing fixed by him. He is further submitted that as the assessment year 2013-14 is prior to the assessment year 2014-15 and which will have a bearing on assessment year 2014-15 and as the appeal of the assessee for assessment year 2013-14 is restored back to the file of the Commissioner of Income Tax (Appeals) for adjudication afresh, the appeal for assessment year 2014-15 should also be remanded back to the file of the Commissioner of Income Tax (Appeals).

5. The Ld. Departmental Representative Shri Gurmel Singh, Sr. DR and Sh. S.S. Rana, CIT(DR) had no objection to the above submission made by the Ld. Authorised Representative of the assessee.

6. In view of above facts of the case and taking into considerations the submissions of the Ld. Authorised Representative of the assessee, to which Ld. Departmental Representative had no objection, we set

aside the orders of the Commissioner of Income Tax (Appeals) and remand the matter back to his file to re-adjudicate the appeal of the assessee afresh after allowing reasonable and proper opportunity of hearing to the assessee. The assessee is directed to appear before the Commissioner of Income Tax (Appeals) on the date of hearing fixed by him and to file all the details and documents as and when called upon to do so by the Ld. Commissioner of Income Tax (Appeals). With these directions the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the Court on 14th, January, 2019 at New Delhi.

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

**Sd/-
(N.S.SAINI)
ACCOUNTANT MEMBER**

Dated: 14.01.2019

BR

Copy forwarded to:

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

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ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	21.12.2018
Date on which the typed draft is placed before the dictating Member	21.12.2018
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	14.01.2019

Date on which the fair order comes back to the Sr. PS/PS	14.01.2019
Date on which the final order is uploaded on the website of ITAT	14.01.2019
Date on which the file goes to the Bench Clerk	
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	