

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

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER**

ITA No. 4932/Del/2018  
Assessment Year: 2008-09

MANOJ BHATIA,  
RAKESH DAULAT RAM & CO., CA  
2<sup>ND</sup> FLOOR, NEAR MUSKAN CHOWK,  
NAVEEN SHAHDARA,  
DELHI – 110 032  
(PAN: ACVPB0741J)

VS. ITO, WARD 34(4)  
NEW DELHI

**(APPELLANT)**

**(RESPONDENT)**

Assessee by : SH. C.S. ANANAD, ADV. & SH.  
MAYANK MAHESHWARI, ADV.  
Department by : SH. S.L. ANURAGI, SR. DR.

**ORDER**

This appeal has been filed by the Assessee against the order dated 25.9.2017 of the Ld. CIT(A)-12, New Delhi relating to assessment year 2008-09 on as many as 06 grounds. However, the main issue argued before us is that Ld. CIT(A) has not given proper and reasonable opportunity to the assessee to substantiate its claim and passed the exparte order.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of convenience.

3. Ld. Counsel of the assessee stated that the Ld. CIT(A) has passed the order against the principles of natural justice by way of ex parte order in not providing sufficient opportunities to the assessee and not decided the appeal on merits. Hence, he requested that the issues in dispute may be set aside to the file of the Ld. CIT(A) to decide the same afresh on merits and pass a speaking order thereon.

4. On the other hand, Ld. DR relied upon the orders of the authorities below.

5. I have heard both the parties and perused the records. It was the contention of the assessee's counsel that Ld. CIT(A) has passed the ex-parte non-speaking order and dismissed the appeal by not providing sufficient opportunities to the assessee, which is against the principle of natural justice. I further find that Ld. CIT(A), has only upheld the order of the AO and passed the ex parte order, which is not sustainable in the eyes of law. Therefore, in the interest of justice, I set aside the issues in dispute to the file of the Ld. CIT(A) to decide the issues in dispute afresh, in accordance with law, after giving adequate opportunity of being heard to the parties and pass a speaking order. However, the Assessee through his Counsel is directed to cooperate with the Ld. CIT(A) in the proceedings and appear before him on **27.02.2019 at 10.00 AM** and produce all the documents before him to substantiate its claim and not to take any unnecessary adjournment.

7. In the result, the Appeal filed by the Assessee stands allowed for statistical purpose.

Order pronounced on 03/01/2019.

**Sd/-  
[H.S. SIDHU]  
JUDICIAL MEMBER**

Dated:03/01/2019

**\*SR BHATNAGAR\***

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT TRUE COPY

By Order,

**ASSISTANT REGISTRAR**

