

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER**

ITA No. 5375/Del/2018
Assessment Year: 2014-15

RAJ REALTECH PVT. LTD.
SPAZEDGE, SOHNA EXPRESSWAY,
SECTOR-47, GURGAON
HARYANA - 122001
(PAN: AADCR8004R)
(APPELLANT)

VS. DCIT,CC-1
GURGAON

(RESPONDENT)

Assessee by : SH. ASHWANI KUMAR, CA
Department by : SH. S.L. ANURAGI, SR. DR.

ORDER

This appeal has been filed by the Assessee against the order dated 13.6.2018 of the Ld. CIT(A), Gurgaon relating to assessment year 2014-15 on the following grounds:-

- i) That order passed u/s. 250(6) of the Income Tax Act, by Ld. CIT(A)-1, Gurgaon is against law and facts on file in as much he was not justified in dismissing the appeal without giving the appellant a reasonable opportunity of being heard in the matter.
- ii) That order passed u/s. 250(6) of the Income Tax Act, 1961 by Ld. CIT(A), Gurgaon is against law and facts on the file in as much he was not justified to uphold the action of the Ld. AO in making an addition of Rs. 1,75,00/-

on the basis of documents seized from the possession of Sh. Arinvder Kumar Dhingra (the then Director of Spaze Group)

- iii) That order passed u/s. 250(6) of the Income Tax Act, 1961 by Ld. CIT(A),. is against law and facts on the file in as the same was passed without jurisdiction in as much the jurisdiction of the case lay with Id. CIT(A)=3, (Central), Gurgaon where all other group cases with a common ground were / are being adjudicated.
- iv) That the appellant craves the right to amend / add/ alter any or all grounds of appeals.

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 exparte 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 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 is directed to cooperate with the Ld. CIT(A) in the proceedings and produce all the documents before him to substantiate its claim and not to take any unnecessary adjournment.

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

Order pronounced on 05/02/2019.

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

Dated:05/02/2019

SR BHATNAGAR

Copy forwarded to: -

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

By Order,

ASSISTANT REGISTRAR

