

IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'A' : NEW DELHI)
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER

ITA No. 887/Del/2016
Assessment Year: 2006-07

MS. HIMANSHI ARORA,
C/O RAKESH KUMAR AGGARWAL,
ADVOCATE,
302, RG COMPLEX-I,
ROHINI, SECTOR-14,
PRASHANT VIHAR,
DELHI - 110 034
(PAN: AGZPA8676M)
(APPELLANT)

VS. ITO, WARD 20(1)
NEW DELHI

(RESPONDENT)

Assessee by : Sh. Ramesh Sharma, CA

Revenue by : Sh. C.P. Singh, Sr. DR.

ORDER

PER H.S. SIDHU, JM

The Assessee has filed the Appeal against the Order dated 10.12.2015 of the Ld. CIT(A)-15, New Delhi pertaining to assessment year 2006-07 on the following grounds:-

- i) That on the facts and in the circumstances of the case, the order passed by the Ld. CIT(A) is bad, both in the eyes of law and on the facts.
- ii) That on the facts and circumstances of the case, the CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the initiation of the assessment proceedings and the assessment order are bad on facts and in law and

liable to be quashed as the statutory conditions and procedure prescribed under the statute have not been complied with.

- iii) That on the facts and circumstances of the case, CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the reassessment order passed by the AO is bad and liable to be quashed as the same has been initiated on the basis of the reasons which are vague and has been recorded without application of mind on the part of the AO.
- iv) That on the facts and circumstances of the case, the CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that notice u/s. 148 of the Act was not served on him and therefore the assessment order is liable to be quashed.
- v) That on the facts and circumstances of the case, the CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the assessment has been framed without affording opportunity to the assessee as no efforts has been made to serve the notice u/s. 142(1) of the Act on the assessee.
- vi) That on the facts and circumstances of the case, the CIT(A) has erred both on facts and in law in rejecting the grounds of appeal and arguments of the assessee and confirming the addition made by the Assessing Authority.
- vii) That on the facts and circumstances of the case, the Ld. CIT(A) has erred both on facts and in law in confirming the addition made by the AO.

viii) The appellant craves leave to add, amend or alter any of the grounds stated herein above, either before or at the time of hearing of appeal.

2. The 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. At the time of hearing, Ld. Counsel for the assessee stated that the Ld. First Appellate Authority has not given sufficient opportunity to substantiate its claim in producing the necessary evidences and passed the exparte and non-speaking order and similarly, the AO has also passed the exparte order dated 18.3.2014 u/s. 144/143(3) of the Act. Hence, he requested that this matter may be set aside to the file of the Ld. CIT(A) for fresh adjudication and decide on merit and pass a speaking order, after giving adequate opportunity of being heard to the assessee.

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

5. We have heard both the parties and perused the records. After perusing the relevant records available with us alongwith the orders of the revenue authorities, we are of the considered view that AO as well Ld. CIT(A) have passed the exparte orders. It is noted that Ld. CIT(A) has not only passed the exparte order, but also passed a non-speaking order by upholding the of the AO and did not deal the merit of the case, which is not sustainable in the eyes of law. Therefore, in the interest of justice, we are setting aside the issues

in dispute to the file of the Ld. CIT(A) to decide the same afresh, after giving adequate opportunity of being heard to the assessee and pass a speaking order.

6. In the result, Assessee's appeal is allowed for statistical purposes.

Order pronounced on 07-03-2019.

Sd/-

Sd/-

[O.P. KANT]
ACCOUNTANT MEMBER

(H.S. SIDHU)
JUDICIAL MEMBER

Dt. 07.03.2019

SR BHATNAGAR

Copy forwarded to: -

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

By Order,

ASSISTANT REGISTRAR
ITAT Delhi Benches