

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

**BEFORE SHRI G. D. AGRAWAL, VICE PRESIDENT  
AND  
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**I.T.A. No. 3095/DEL/2016 (A.Y 2011-12)**

Satish Kumar Pawa D-842, 2 <sup>nd</sup> Floor, New Friends Colony, New Delhi AAJPP2997A <b>(APPELLANT)</b>	Vs	DCIT Central Circle-9 New Delhi <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. Salil Agarwal &amp; Sh. Shailesh Gupta, CA</b>
<b>Respondent by</b>	<b>Sh. N. K. Bansal, Sr. DR</b>

<b>Date of Hearing</b>	<b>01.04.2019</b>
<b>Date of Pronouncement</b>	<b>02.04.2019</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against the order dated 31/03/2016 passed by CIT(A)-27, New Delhi for Assessment Year 2011-12.

2. The grounds of appeal are as under:-

*“1. That the learned Commissioner of Income Tax (Appeals) has grossly erred in law and on facts in passing the order in utter disregard of the statutory provisions contained under section 250(6) of the Act by dismissing the appeal of the appellant ex parte, thereby, violating the principles of natural justice.*

*2. That the learned Commissioner of Income Tax (Appeals) has overlooked the provisions of Section 250(6) of the Act, as the order passed by him is non speaking and without affording any proper opportunity of being heard to the appellant.*

*3. That the learned Commissioner of Income Tax (Appeals) has ignored*

*various judicial rulings, wherein it was held that section 250(6) makes it obligatory for the CIT (A) to pass a speaking order deciding the points raised in appeal, stating his reasons for the decision, as such.*

*4. That the learned Commissioner of Income Tax (Appeals) ought not to have decided the appeal of the appellant ex parte, as due appearance was caused by the counsel of assessee - appellant, however, no order sheet entries were made signed by her and as such, due compliance was made by the appellant.*

*5. That the learned Commissioner of Income Tax (Appeals) has further erred both in law and on facts in upholding the order of assessment at an income of Rs. 5, 72, 77, 278/-, as against the returned income of Rs. 1, 72, 056/- in an order of assessment dated 28.03.2013 under section 143(3)/ 153A of the Act.*

*5.1. That in doing so, the learned Commissioner of Income Tax (Appeals) has failed to appreciate the fact that the addition so made by learned assessing officer is beyond the purview of the assessment so made under section 153 A of the Act, as addition so made is not based on any document/ material found as a result of search, thus, the addition so made is beyond the scope of provisions of section 153A of the Act and should have been deleted, as such.*

*5.2. That further, the learned Commissioner of Income Tax (Appeals) has also failed to appreciate the fact that addition so made by learned assessing officer is based on preconceived notions and by arbitrarily brushing aside the detailed submissions/evidences/material placed on record, which were furnished in order to support the fact that no addition was called for in the instant case.”*

3. The assessee is deriving income as salary/remuneration from the Companies/Firms. The assessee is a Director in M/s Jagat Agro Commodities Pvt. Ltd. and a partner in M/s Jagat Overseas, both these concerns deals in trading of rice and paddy. Search, seizure and survey operation u/s 132/133A of the Income Tax Act, 1961 was conducted by the DIT (Investigation), New Delhi in Jagat Group of cases, its Directors, other individual and connected associates and business and residential premises on 14/09/2010. The

assessee filed return u/s 139 (4) on 9/02/2012 declaring income of Rs.1,72,56/-. Notice u/s 143(2) of the Act was issued on 18/09/2012 and served on 2/09/2012 further notice u/s 142 (1) with questionnaire was issued and served. In response to these notices CA of the assessee filed replies. The Assessing Officer made addition of Rs. 5,71,05,223/- on account of unaccounted transaction.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT (A). The CIT (A) dismissed the appeal of the assessee ex-parte.

5. The Ld. AR during the hearing submitted that for Assessment Year 2009-10 & 2010-11, the Tribunal in assessee's own case has remanded back the matter to the file of the CIT(A) (ITA No. 3093 & 3094/DEL/2016 order dated 03.08.2017).

6. The Ld. DR relied upon the assessment order and order of the CIT (A).

7. We have heard both the parties and perused the material available on record. During the hearing, the Ld. AR also submitted that for Assessment Year 2009-10 & 2010-11, the Tribunal in assessee's own case has remanded back the matter to the file of the CIT(A). It is pertinent to note that the order of the CIT (A) is ex-parte and has not taken cognizance of the relevant evidences produces before the Assessing Officer during the assessment proceedings as well. The order is non-speaking. Therefore, we are setting aside the order of the CIT (A) and remanding back the issues to the file of the CIT(A) for deciding the same on merit. Needless to say the assessee be given opportunity of hearing by following principles of natural justice.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

**Order pronounced in the Open Court on 02<sup>nd</sup> APRIL, 2019.**

Sd/-

**(G. D. AGRAWAL)  
VICE PRESIDENT**

Sd/-

**(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Dated: 02/04/2019  
*R. Naheed \**

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

Date of dictation	01.04.2019
Date on which the typed draft is placed before the dictating Member	02.04.2019
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	
Date on which the fair order comes back to the Sr. PS/PS	2.04.2019
Date on which the final order is uploaded on the website of ITAT	2.04.2019
Date on which the file goes to the Bench Clerk	2.04.2019
Date on which the file goes to the Head Clerk	