

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

**BEFORE SHRI N.S. SAINI, ACCOUNTANT MEMBER**

**ITA Nos. 6417 & 6418/Del/2018  
Assessment Year: 2009-10**

Gajendra H.No. 540, Opposite Railway Crossing, Duhai, Ghaziabad. <b>PAN No. ARCPG3201G</b>	vs	ITO Ward 1(2) Ghaziabad.
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee by</b>	<b>Sh. Raj Kumar Agarwal, CA</b>
<b>Revenue by</b>	<b>Shri N.S. Saini, AM</b>

<b>Date of Hearing</b>	<b>08.04.2019</b>
<b>Date of Pronouncement</b>	<b>08.04.2019</b>

**ORDER**

These two appeals filed by the assessee against the separate orders of CIT(Appeals) Ghaziabad dated 05.07.2018 and 31.07.2018 for the AY 2009-10.

2. At the time of hearing, AR of the assessee submitted that both the appeals of the assessee are dismissed by the CIT(A) on the ground that the assessee was sent notice for removing the defects on 25.04.2018 and 15.05.2018 at the address given in Form 35 for the communication as well as through e-mail but the assessee failed to reply regarding the condonation of delay. It was

submitted by the AR of the assessee that notice was sent by the CIT(A) at the following e-mail address:

[ADVOCATEMANISH23@GMAIL.COM](mailto:ADVOCATEMANISH23@GMAIL.COM)

Instead of the following e-mail address:

[UPVAT.JATIN@GMAIL.COM](mailto:UPVAT.JATIN@GMAIL.COM)

Therefore, the assessee did not receive the notice and hence, could not comply with the same. Therefore, it was his submission that the matters should be restored back to the file of CIT(A) for fresh adjudication.

3. The DR had no objection to the above submission of the AR of the assessee.

4. In the above background of the case, I find that there is force in the submission of the DR that the assessee did not receive the notice of hearing. Hence, in order to render substantial justice, I set aside the order of CIT(A) and restore the matter back to his file for adjudicating the appeals of the assessee afresh after allowing reasonable and proper opportunity of hearing to the assessee.

5. In the result, the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 08/04/2019

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

Dated: 08.04.2019

\*Kavita Arora

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	08/04/2019
Date on which the typed draft is placed before the dictating Member	08/04/2019
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	08/04/2019
Date on which the fair order comes back to the Sr. PS/PS	08/04/2019
Date on which the final order is uploaded on the website of ITAT	09/04/2019
Date on which the file goes to the Bench Clerk	09/04/2019
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	