

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'F' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI K.N. CHARY, JUDICIAL MEMBER

ITA No. 2665/DEL/2016
[Assessment Year: 2009-10]

Shri Ishwar Chand S/o Shri Fakeera Vs.
Village Dundahera
Ghaziabad [U.P.]

The I.T.O
Ward - 1(3)
Ghaziabad

PAN : AKKPT 1523 B

[Appellant]

[Respondent]

Date of Hearing : 09.04.2019
Date of Pronouncement : 12.04.2019

Assessee by : Shri Rajesh Malhotra, CA.
Revenue by : Smt. Ashima Neb, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals], Ghaziabad dated 29.02.2016 pertaining to assessment year 2009-10.

2. The sum and substance of the grievance of the assessee is that the CIT(A) dismissed the appeal *ex parte* and confirmed the addition of Rs. 1,19,97,090/- to the income of the assessee under the head 'Long Term Capital Gain' on sale of agricultural land.

3. We have carefully perused the order of the first appellate authority. We find that the first appellate authority has issued notices to the assessee on various dates which is evident from the following chart:

S No.	Date of	Date fixed for hearing	Remark
1.	10.06.2015	14.07.2015	None attended nor filed any application for adjournment was filed
2.	22.07.2015	29.07.2015	Adjournment letter filed
3.	19.10.2015	10.11.2015	None attended nor filed any application for adjournment was filed
4.	12.11.2015	27.11.2015	None attended nor application for adjournment was filed.
5.	18.12.2015	06.01.2016	On request case was adjourned for 22.01.2016
6.	-	22.01.2016	On request case was adjourned for 01.02.2016
7.	-	01.02.2016	On request case was adjourned for 26.02.2015
8.		26.02.2015	Sh. Sunil Kr. Goel, C.A. attended and sought adjournment. On request case was finally adjourned to 29.02.2016
9.		29.01.2015	None attended nor filed any written reply.

4. It can be seen that on 26.02.2015 [which should be 26.02.2016], the ld. AR sought adjournment and the case was adjourned to 29.02.2016. On non-appearance, the CIT(A) dismissed the appeal in limine. We are of the considered opinion that on earlier occasions also, as is evident from the above chart, the assessee did not respond to the notice of the CIT(A). Yet the CIT(A) chose not to dismiss the appeal in limine. Considering the facts of the case, we deem it fit to restore the issue to the file of the CIT(A). The CIT(A) is directed to decide the appeal on merits after affording sufficient opportunity of being heard to the assessee.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

The order is pronounced in the open court on 12.04.2019.

Sd/-

**[K.N. CHARY]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 12th April, 2019.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
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	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
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	