

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

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

ITA No.3528/Del/2015  
Assessment Year : 2010-11

Shri Satya Pal Jindal,  
K-1446, Palam Vihar,  
Gurgaon – 124 107,  
Haryana.  
PAN : AAGPJ2783B.  
(Appellant)

Vs. Assistant Commissioner of  
Income Tax,  
Circle-19(1),  
New Delhi.  
(Respondent)

Appellant by : Shri Ashwani Kumar, CA.  
Respondent by : Shri N.K. Bansal, Senior DR.

Date of hearing : 15.04.2019  
Date of pronouncement : 16.04.2019

**ORDER**

**PER G.D. AGRAWAL, VICE PRESIDENT :-**

This appeal by the assessee for the assessment year 2010-11 is directed against the order of learned CIT(A)-12, New Delhi dated 16<sup>th</sup> March, 2015.

2. Ground Nos.1 & 2 of the assessee's appeal read as under :-

*"1. That the order dated 16-03-2015 passed u/s 250 of the Income-tax Act, 1961 by the learned Commissioner of Income-tax (Appeals) 12, New Delhi is against law and facts on the file in as much as he was not justified to decide the appeal without giving sufficient and reasonable opportunity to the appellant.*

*2. That the order dated 16-03-2015 passed u/s 250 of the Income-tax Act, 1961 by the learned Commissioner of Income-tax (Appeals) 12, New Delhi is against law and*

*facts on the file in as much as he failed to appreciate the fact that the notices dated 04-02-2015 and 23-02-2015 were received by the appellant much after the date of fixation of appeals i.e. on 11-02-2015 and 03-03-2015 respectively."*

3. At the time of hearing before us, it is stated by the learned counsel that learned CIT(A) decided the appeal ex-parte after issuing two notices for hearing. The first notice was dated 4<sup>th</sup> February, 2015 and the appeal was fixed for hearing on 11<sup>th</sup> February, 2015. The second notice was dated 23<sup>rd</sup> February, 2015 and the appeal was fixed for hearing on 3<sup>rd</sup> March, 2015. He stated that both the above notices were served after the date of hearing and therefore, the assessee could not appear before the Assessing Officer. He, therefore, requested that the order of learned CIT(A) should be set aside and he should be directed to allow adequate opportunity of being heard to the assessee.

4. Learned DR, on the other hand, relied upon the order of learned CIT(A).

5. We have carefully considered the rival submissions and perused the material placed before us. Though the order of learned CIT(A) is ex-parte but the CIT(A) has not mentioned in the order when the notice for hearing was issued and served upon the assessee and when was the date of hearing fixed. In the absence of any such detail in the order of the learned CIT(A), the facts stated by the learned counsel for the assessee remain uncontroverted that no adequate opportunity of being heard was allowed. In view of the above, we deem it appropriate to set aside the order of learned CIT(A) and restore the matter to his file. We direct him to allow adequate opportunity of being heard to the assessee by issuing notice of hearing well in advance so that the same

can be properly served upon the assessee in time. Thereafter, he should readjudicate the issues raised before him in accordance with law.

6. In the result, the appeal of the assessee is deemed to be allowed for statistical purposes.

Decision pronounced in the open Court on 16.04.2019.

Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER

Sd/-  
(G.D. AGRAWAL)  
VICE PRESIDENT

VK.

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1. Appellant : Shri Satya Pal Jindal,  
K-1446, Palam Vihar, Gurgaon – 124 107,  
Haryana.
2. Respondent : Assistant Commissioner of Income Tax,  
Circle-19(1), New Delhi.
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar