

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

Before Sh. N. S. Saini, Accountant Member

ITA No. 7461/Del/2018 : Asstt. Year : 2010-11

Amar Pal, C/o M/s Sanjeev Anand & Associates, 77, Navyug Market, Ghaziabad, U.P.-201001	Vs	Income Tax Officer, Ward-1(5), Ghaziabad
(APPELLANT)		(RESPONDENT)
PAN No. DSGPP0268G		

**Assessee by : Sh. Sumit Gupta, CA
Revenue by : Sh. S. L. Anuragi, Sr. DR**

Date of Hearing: 11.04.2019	Date of Pronouncement: 29.04.2019
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ORDER

This is an appeal filed by the assessee against the order of Commissioner of Income Tax (Appeals), Ghaziabad dated 28.09.2018.

2. It is observed from the order of assessment that the Assessing Officer passed order u/s 144 r.w.s. 147 of the Income Tax Act, 1961 on 23.11.2017 as the assessee did not appear before him and filed the details required by the Assessing Officer.

3. Further, it is observed from the order of the Commissioner of Income Tax (Appeals) that notice of hearing was given on following dates when the following was the outcome:

<i>Sl. No.</i>	<i>Date of notice</i>	<i>Date fixed for hearing</i>	<i>Remark</i>
1.	13.08.2018 (by Speed Post and Email)	21.08.2018	An application filed for adjournment. On request the case is adjourned to 30.08.2018.

2.		30.08.2018	An application filed for adjournment. On request the case is adjourned to 11.09.2018.
3.		11.09.2018	An application filed for adjournment. On request the case is adjourned to 18.09.2018.
3.		18.09.2018	An application filed for adjournment. On request the case is adjourned to 26.09.2018. With final opportunity.
4.		26.09.2018	None attended.

4. In the above circumstances, the Commissioner of Income Tax (Appeals) dismissed the appeal of the assessee.

5. Before me, the Authorized Representative of the assessee prayed that one more opportunity should be granted to the assessee to present its appeal before the Commissioner of Income Tax (Appeals). However, he could not explain the reasons for not cooperating with the Assessing Officer and the Commissioner of Income Tax (Appeals) by appearing on the dates of hearing fixed by them.

6. The Id. Departmental Representative vehemently opposed the prayer of the Authorized Representative of the assessee for allowing one more opportunity to the assessee for presenting its appeal before the Commissioner of Income Tax (Appeals).

7. I have considered the rival submissions and perused the orders of the lower authorities and materials available on record. It is an undisputed fact of the case that the assessee did not cooperate with the Assessing Officer as well as the Commissioner of Income Tax (Appeals) during the dates of hearing fixed by them by filing the requisite details and evidences. However, I am of the opinion that to render substantial justice in the case one more opportunity should be granted to the assessee but with imposition of cost. I, therefore, direct the assessee to deposit Rs.5000/- as cost and restore the appeal to the file of the

Commissioner of Income Tax (Appeals) for adjudicating the same afresh after allowing reasonable and proper opportunity of hearing to the assessee. The assessee is directed to produce the challan for deposit of cost of Rs.5000/- before the Commissioner of Income Tax (Appeals) and also file a copy of the same to the Tribunal. With these directions, the appeal of the assessee is allowed for statistical purposes.

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

(Order pronounced in the Court on 29th day of April, 2019 at New Delhi)

**Sd/-
(N. S. Saini)
Accountant Member**

Dated: 29/04/2019

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR