

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH FRIDAY 'C' NEW DELHI**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
AND  
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**STAY NO. 659/Del/2019  
(IN ITA No.4244/Del/2019)  
Assessment Year: 2015-16**

**ITA No.4244/Del/2019  
Assessment Year: 2015-16**

M/s Hardik Garments Pvt. Ltd., C/o Mahesh Kumar & Co., Chartered Accountants, 304, 19, Arunachal Building, Barakhamba Road, New Delhi-110001	<b>vs</b>	Income Tax Officer, Ward 11(1), New Delhi-110002
Appellant		Respondent

**Assessee by : Shri Ruchesh Sinha, Adv.  
Department by: Shri N.K. Bansal, Sr. DR**

**Date of hearing : 14.06.2019  
Date of pronouncement : 14.06.2019**

**ORDER**

**PER SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER :**

By means of this Stay Application, the Applicant seeks stay of outstanding demand of Rs. 1,67,98,590/- pertaining to assessment year 2015-16.

2.0 The Ld. AR submitted that the ld. CIT(A) has decided the assessee's appeal *ex parte qua* the assessee applicant, and, therefore, a complete stay of the outstanding demand should be

granted to the applicant.

2.1 The ld. Sr. DR opposed the complete stay of demand and argued that the stay should be given subject to the applicant depositing at least 50% of the outstanding demand.

2.2 We have heard both the parties and have also gone through the impugned order in ITA No. 4244/Del/2019. It is evident from the perusal of the impugned order that the ld. CIT(A)-22 vide order dated 18.02.2019 had dismissed the applicant assessee's appeal *in limine* without considering the facts of the case for the simple reason that the assessee did not appear when the appeal was fixed for hearing. The ld. AR has made a statement at the Bench that the notices for the hearing of appeal were not received by the assessee applicant.

2.3 Ld. Sr. DR had no objection to the issue being restored to the file of the ld. CIT(A).

2.4 Ld. AR has also agreed that the issue can be restored to the file of the ld. CIT(A) for fresh adjudication. In view of the concurrence of both the parties, we restore the appeal to the file of the ld. CIT(A) to be decided afresh after giving due opportunity to the assessee to present its case. The assessee is also directed to keep track of the appellate proceedings and appear before the

ld. CIT(A) when called upon to do so, failing which the Ld. CIT(A) shall be at liberty to decide the appeal *ex parte qua* the assessee as per law.

3. Since the appeal has been restored to the file of the ld. CIT(A), the stay application becomes infructuous and is dismissed.

4. In the result, the stay application stands dismissed whereas the assessee's appeal stands allowed for statistical purposes.

Order pronounced in the open court on 14<sup>th</sup> JUNE 2019.

**Sd/-**

**(R.K. PANDA )  
ACCOUNTANT MEMBER**

**Sd/-**

**(SUDHANSHU SRIVASTAVA)  
JUDICIAL MEMBER**

Dated: 14<sup>th</sup> JUNE 2019  
'GS'

Copy forwarded to: -

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

By Order

ASSTT. REGISTRAR

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	