

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

BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER

**ITA No.:- 5385/Del/2018
(Assessment Year: 2012-13)**

Malik Enterprises Pvt. Ltd. 2144, Turkman Gate, Delhi, Pin: 110006	Vs.	ITO Ward-16(2) New Delhi
PAN No: AAACM1403C		
APPELLANT		RESPONDENT

Assessee by : Sh. B.L. Gupta, ITP.
Revenue by : Sh. S.L. Anuragi, Sr. DR
Date of Hearing : 13.06.2019
Date of Pronouncement : 24.06.2019

ORDER

PER DIVA SINGH:

The present appeal has been filed by the assessee assailing the correctness of the Order dated 10.05.2018 of CIT(A)-42, New Delhi, pertaining to 2012-13 Assessment Year on various grounds.

2. At the time of hearing, Mr. B.L. Gupta appearing on behalf of the assessee addressing the impugned Order admitted that the assessee did not participate before the CIT(A). The additions made by the AO it was submitted were challenged as the AO concluded the assessed income of the assessee at Rs. 14,38,240/- as opposed to the returned income of Rs. 1,85,565/-.

2.1 It was submitted that the additions were assailed before the CIT(A) however for reasons beyond the control of the assessee due to the assessee's health problems, meaningful participation could not take place. The record shows that since the assessee failed to appear, the additions were confirmed.

3. The ld. Sr.DR was heard.

4. I find on a perusal of the peculiar facts and circumstances of the case that it would be just and fair to remand the issue. Accepting the oral undertaking given by the Ld. AR that the assessee shall participate and considering the submissions of the ld. Sr.DR who had no objection to the remand, the impugned order is set aside back to the file of the CIT(A) with the direction to pass a speaking Order in accordance with law. In support of the said conclusion, it is necessary to make a reference to the further relevant facts on record. The record shows that the adjournments on behalf of the assessee had been sought on the grounds of back pain etc due to advanced age of the assessee per page 6-7 of the impugned Order. Accordingly, in the interests of substantial justice a remand is directed. The assessee in its own interest is advised to participate fully and fairly before the said authority as failing which it is made clear that the CIT(A) would be at liberty to pass an Order on the basis of the material available on record. Said Order was pronounced in the open Court at the time of hearing itself.

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

Sd/-

(DIVA SINGH)
JUDICIAL MEMBER

Dated: 24.06.2019
Bidhan / AG(Chd)/Poonam(CHD)

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	13.06.19
Date on which the typed draft is placed before the dictating Member	14.06.19 17.06.19,20.06.19
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	