

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

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

**I.T.A .No.-6902/Del/2018
(ASSESSMENT YEAR- 2014-15)**

Rajasthan Prime Distributor C/o Saurabh Goyal & Associates, 2 nd Floor, House No. 171, Sector-21A, Faridabad, Haryana. PAN No. AALFR0887P	vs	ITO Ward 39(5) New Delhi.
(APPELLANT)		(RESPONDENT)
Appellant by	Shri Saurabh Goyal, CA	
Respondent by	Shri S.L. Anuragi, Sr. DR	

ORDER

The assessee filed the present appeal against the impugned order dated 27.07.2018 passed by the Ld. CIT(A) on the following grounds:

1. *“That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not quashing the impugned assessment order and dismissing the appeal of the appellant that too without providing adequate opportunity of being heard and without observing the principle of natural justice.*
2. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making disallowance of interest amounting to Rs. 91,511/- u/s 40(a)(ia) on the ground that TDS has not been deducted on the said amount, more so when payee is an income tax assessee and has shown this amount in its return of income and paid the taxes also and impugned disallowance has been made by recording*

incorrect facts and findings and without observing the principles of natural justice.

3. *That having regard to the facts and circumstances of the case, the Ld. CIT(A) has erred in law and on facts in observing that payer is M/s Akhil Kumar Garg and not the appellant, without considering the fact that M/s Akhil Kumar Garg is the partner of appellant firm.*
4. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not adjudicating the adhoc disallowance of Rs. 37,417/- (1/8th of Rs. 2,99,338/-) on account of depreciation on car and that too without any basis, findings, evidences and material available on record.*
5. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

2. Facts narrated by the Revenue authorities are not disputed by both the parties, therefore, no need to repeat the same for the sake of convenience.

3. At the time of hearing, Ld. Counsel for the assessee stated that Ld. First Appellate Authority has passed the impugned order against the assessee without providing sufficient opportunity of being heard to the assessee. He requested the issue in dispute may be set aside to the Ld. First Appellate Authority to decide the same afresh as per law after providing sufficient opportunity to the assessee.

4. On the contrary, Ld. DR relied upon by the orders passed by the Revenue authorities, but did not strongly oppose the request of Ld. Counsel for the assessee.

5. I have heard both the parties, perused the relevant record available with me including the orders passed by the Revenue

authorities and I am of the view that the Ld. First Appellate Authority has decided the issue in dispute against the assessee without providing sufficient opportunity to the assessee. This is contrary to the principle of natural justice. Therefore, in the interest of justice, issues in dispute are set aside to the Ld. First Appellate Authority to decide the same afresh as per law after providing sufficient opportunity to the assessee.

6. Keeping in view of the non-cooperation of the assessee before the Ld. First Appellate Authority, I am directing the assessee through his Counsel to appear before the Ld. First Appellate Authority on 23/10/2019 at 10.00 a.m. There is no need to issue notice to the assessee because this order has been pronounced in the open court.

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

Order pronounced on 10.07.2019

Sd/-
(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 10/07/2019

**Kavita*

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

		Date
1.	Draft dictated on	09.07.2019
2.	Draft placed before author	09.07.2019/ 10.07.2019
3.	Draft proposed & placed before the second member	
4.	Draft discussed/approved by Second Member.	10.07.2019
5.	Approved Draft comes to the Sr.PS/PS	10.07.2019
6.	Order Pronounced and Uploaded	10.07.2019
7.	File sent to the Bench Clerk	10.07.2019
8.	Date on which file goes to the AR	
9.	Date on which file goes to the Head Clerk.	
10.	Date of dispatch of Order.	