

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

Before Sh. Bhavnesh Saini, Judicial Member

ITA No. 7401/Del/2018 : Asstt. Year : 2009-10

Chandrapal Singh, Village-Kishanpur, Post-Shivali, Bulandshahr, Uttar Pradesh	Vs	Income Tax Officer, Ward-3(1), Bulandshahr
(APPELLANT)		(RESPONDENT)
PAN No. BNAPC4302F		

**Assessee by : Sh. Anup Sharma, Adv. &
Sh. Sanjay Prashar, Adv.
Revenue by : Sh. S. L. Anuragi, Sr. DR**

Date of Hearing : 18.07.2019	Date of Pronouncement : 01.08.2019
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ORDER

This appeal by the assessee has been directed against the order of Id. CIT(A), Ghaziabad dated 28.09.2018 for assessment year 2009-10.

2. The Id. CIT(A) noted in the appellate order that appeal is time barred. The notice explaining the delay and removing the defect was sent to assessee but no reply have been filed by assessee. In these circumstances, the Id. CIT(A) considered the appeal of assessee as *non est* being defective, same was dismissed in *limine*.

3. After considering the rival submissions, I am of the view, matter requires reconsideration at the level of the Id. CIT(A). The Id. Counsel for assessee submitted that assessee was hospitalized many times and was not able to participate in any proceedings. Various medical prescription certificates are filed on record. He has also submitted that no defect notice have been received by the assessee. He has, therefore, submitted that matter may be remanded to the Id. CIT(A) to decide the appeal afresh.

4. The ld. DR also suggested in these circumstances, matter could be remanded to the ld. CIT(A) for fresh adjudication.

5. After considering rival submissions and facts of the case stated above, I am of the view, the matter requires reconsideration at the level of ld. CIT(A). I accordingly, set aside the appellate order and restore the appeal of assessee to the file of ld. CIT(A) with direction to re-decide the appeal of assessee afresh by giving the reasonable sufficient opportunity of being heard to the assessee.

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

Order Pronounced in the Court on 01/08/2019

Sd/-
(Bhavnesb Saini)
JUDICIAL MEMBER

Dated: 01/08/2019

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR