

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

**BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

I.T.A. No. 5471/Del/2016
Assessment Year: 2012-13

M/S B.L. FOUNDRY PVT. LTD.,
D-16, CITY CHAMBER,
S-1, 2ND FLOOR, CENTRAL MARKET,
PRASHANT VIHAR,
NEW DELHI – 110 085
(PAN: AAACB0821H)
(ASSESSEE)

vs. ITO, WARD 4(1),
NEW DELHI

(RESPONDENT)

Assessee by: Sh. K. Sampath, Adv.
Revenue by: Sh. D.S. Rawat, Sr. DR.

ORDER

PER H.S. SIDHU, JM

This appeal is filed by assessee against the Order dated 19.8.2016 passed by the Ld. CIT(A)-2, New Delhi relating to Assessment Year 2012-13 on the following grounds:-

On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in :

1. deciding the appeal without providing due and adequate hearing to the appellant;
2. confirming the assessment at an income of Rs. 4,90,89,260/- against the returned of nil;
3. confirming the following additions made by the Assessing Officer:
 - i) Rs. 4,15,00,000/- on account of share application money received u/s. 68 of the I.T. Act, 1961;
 - ii) Rs. 1,60,00,000/- on account of unsecured loan u/s. 68 of the I.T. Act, 1961.

All the above actions being arbitrary, misconceived, erroneous and illegal must be quashed with suitable directions of appropriate relief.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of brevity.

3. During the hearing, Ld. counsel for the assessee has stated that Ld. CIT(A) has issued the notice to the assessee on the wrong address, therefore, the assessee could not appear before the Ld. CIT(A) during the appellate proceedings and Ld. CIT(A) decided the case against the assessee *ex parte* without hearing the assessee. Therefore, he requested that the issues in dispute may be remitted back to the file of the Ld. CIT(A) to decide the same afresh, as per law after giving adequate opportunity of being heard to the assessee and consider all the documents/evidences of the assessee. He undertakes that if this Bench remitted back the issue to the file of the Ld. CIT(A), the assessee will fully cooperate with the Ld. CIT(A) in the proceedings and will not take any unnecessary adjournment.

4. On the other hand, Ld. DR relied upon the order of the Ld. CIT(A) and stated that Ld. CIT(A) has given various opportunities to the assessee, but the assessee remained non-cooperative and as a result thereof, the Ld. CIT(A) has no option but to dismiss the appeal of the assessee. But he has no objection for setting aside the issues in dispute to the file of the Ld. CIT(A) for deciding the same afresh, subject to the condition that if this Bench directed the assessee through his counsel to appear before the Ld. CIT(A) to substantiate its claim on the fixed date and Ld. CIT(A) will not issue any notice to the assessee.

5. We have heard both the parties and perused the records as well as the relevant provisions of law, we are of the view that Ld. CIT(A) has issued notice on the incorrect address, therefore, assessee could not appear before the Ld. CIT(A) and Ld. CIT(A) has passed the *ex parte* order against the assessee, which in our opinion, is not in accordance with the principles of natural justice.

5.1 In the background of the aforesaid discussions and in the interest of justice as well as agreed by both the parties, we remit back the issues in dispute to the files of the Ld. Commissioner of Income Tax (Appeals) for hearing on **24.10.2019 at 10.00 AM** with the directions to consider each and every aspects of the issues involved in the Appeal and decide the same afresh, after considering all the evidences/documents and pass a speaking order. It is made clear that no notice for hearing will be issued by the Ld. CIT(A). Assessee is also directed through his Counsel to appear before the Ld. CIT(A) on **24.10.2019 at 10.00 AM** for hearing to substantiate his case and file all the necessary documents before him and did not take any unnecessary adjournment in the case.

6. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced on 19/08/2019.

Sd/-

**[ANADEE NATH MISSHRA]
ACCOUNTANT MEMBER**

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date 19/08/2019

"SRB"

Copy forwarded to: -

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches

