

**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. 6540/Del/2019
Assessment Year: 2013-14

BIKRAM SINGH,
8/34, Mehram Nagar,
New Delhi – 110 010
(PAN: ABKPS5232P)
(ASSESSEE)

vs. DCIT, CIRCLE 21(2),
NEW DELHI

(RESPONDENT)

Assessee by: Sh. Madhur Aggarwal, Adv.
Revenue by: Sh. Anil Kumar Sharma, Sr. DR.

ORDER

PER H.S. SIDHU, JM

This appeal is filed by assessee against the Order dated 22.7.2019 passed by the Ld. CIT(A)-7, New Delhi relating to Assessment Year 2013-14 on the following grounds:-

1. That the Ld. CIT(A) has erred both on facts and in law in dismissing the appeal, despite the fact there was no defect either in the memo of appeal or otherwise, as alleged of not furnishing attachments, since attachment were furnished and exists even on the portal of CIT(A).
2. That the Ld. CIT(A) has further erred in holding that the appellant had been requested on 27.3.2019, when he did not attend. He has failed to appreciate that no such alleged notice directing the appellant to attend at any time

had been received and as such findings are perverse.

3. That the order passed by the Ld. CIT(A) is anti dated and had been passed after he had been compulsorily superannuated.
4. That the Ld. CIT(A) has failed to appreciate that the disallowance made by the AO of interest of Rs. 73,15,529/- and was disputed before him, stood covered in assessee's favour by an order of Commissioner of Income Tax (Appeals) dated 19.12.2017 for the AY 2014-15 and as such claim of interest disallowed by the AO of Rs. 73,15,529/- ought to have been allowed by the Ld. CIT(A).

It is therefore, prayed that the appeal of the appellant be allowed and the disallowance made by the AO be directed to be deleted and without prejudice the order of Ld. CIT(A) be set aside to decide the appeal on merits of the disallowance made and disputed before him.

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 erred both on facts and in law in dismissing the appeal, despite the fact there was no defect either in the memo of appeal or otherwise, as alleged of not furnishing attachments, since attachment were furnished and exists even on the portal of CIT(A). He further submitted that Ld. CIT(A) also erred in holding that the assessee had been requested on 27.3.2019, when he did not attend. He has failed to appreciate that no such alleged notice directing the assessee to attend at

any time had been received and as such findings are perverse. 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 exparte without hearing the assessee. Hence, 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. Ld. DR did not controvert the contention of the Ld. Counsel for the assessee and also has no objection for setting aside the issues in dispute to the file of the Ld. CIT(A) for deciding the same afresh.

5. We have heard both the parties and perused the records as well as the relevant provisions of law, we find considerable cogency in the contention of the Ld. Counsel for the assessee that there is no defect either in the memo of appeal or otherwise. We further find that there is no such proof is available on record that the alleged notice directing the assessee to attend the proceedings on 27.3.2019 had been received by the assessee and in the absence thereof, the assessee could not appear before the Ld. CIT(A) and Ld. CIT(A) has passed the exparte non-speaking 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, we remit back the issues in dispute to the files of the Ld. Commissioner of Income Tax (Appeals) for hearing on **31.10.2019 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 **31.10.2019 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 26/08/2019.

Sd/-

**[ANADEE NATH MISSHRA]
ACCOUNTANT MEMBER**

Sd/-

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

Date 26/08/2019

"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