

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.545/Del./2019
Assessment Year 2015-2016

M/s. Awana Tour & Travels Pvt. Ltd., F-15, Sector-20, Noida – 201 301. PAN AAICA4752C	vs.,	The ACIT, Circle-1, Aayakar Bhawan, Sector-24, Noida.
(Appellant)		(Respondent)

For Assessee :	Shri Anuj Garg, C.A. And Shri Inderjit Singh, C.A.
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	26.08.2019
Date of Pronouncement :	02.09.2019

ORDER

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-1, Noida, Dated 28.09.2018, for the A.Y. 2015-2016.

2. In this case assessee filed return of income at Rs.30,09,000/- on 29.10.2015. The A.O. passed the ex-parte assessment order and computed the income at Rs.90,17,495/-. The assessee filed appeal before the Ld. CIT(A). On the first date of hearing, the Counsel for Assessee

sought adjournment which was refused by the Ld. CIT(A) and dismissed the appeal of assessee.

3. I have heard the Learned Representatives of both the parties. Learned Counsel for the Assessee submitted that the Ld. CIT(A) dismissed the appeal of assessee because no fees for filing of the appeal have been paid or challan produced on record and that assessee did not deposit the tax due on the returned income. He has submitted that assessee has mentioned in Form No.35 itself filed before Ld. CIT(A) that appeal fees has been paid which contains ESR Code No. and serial number. He has submitted that assessee already paid tax on the returned income and refund was claimed. Therefore, both the allegations are incorrect.

4. In view of the above position, the Ld. D.R. submitted that matter may be remanded to the file of Ld. CIT(A) for passing the order afresh.

5. Considering the above facts, I am of the view that the matter requires reconsideration at the level of the Ld.

CIT(A). Learned Counsel for the Assessee has very categorically submitted that assessee has paid the appeal fees for filing the appeal before the Ld. CIT(A) and that tax have been paid on returned income. Both the facts are clear from the details furnished in the paper book. The Ld. CIT(A) on the very first date of hearing should not have dismiss the appeal of assessee on the aforesaid reasons. It is a case of denial of principles of natural justice to the assessee. I, accordingly, set aside the impugned order of the Ld. CIT(A) and restore the appeal of assessee to the file of Ld. CIT(A) with a direction to re-decide the appeal of assessee in accordance with Law, by giving reasonable, sufficient opportunity of being heard to the assessee.

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

Order pronounced in the open Court.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 02nd September, 2019
VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "SMC" Bench
6.	Guard File

//By Order//

Asst. Registrar : ITAT : Delhi Benches :
Delhi.

Date of dictation	26.08.2019
Date on which the typed draft order is placed before the dictation Member	30.08.2019
Date on which the approval draft comes to the Sr. PS	02.09.2019
Date on which the fair order is placed before the Dictation member for pronouncement	02.09.2019
Date on which the fair order comes back to the Sr. P.S.	02.09.2019
Date on which the final order is uploaded on the website of ITAT	02.09.2019
Date on which the file goes to the Bench Clerk	02.09.2019
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.	