

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'G', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 6926/Del/2017 : Asstt. Year : 2011-12

Rachna Maloo, 5B, Shree Niket, 11, Ashoka Road, Alipore, Kolkata, West Bengal-700027	Vs	Asstt. Commissioner of Income Tax, Central Circle-25, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AENPM6717P		

Assessee by : Sh. M. P. Rastogi, Adv.

Revenue by : Sh. N. K. Bansal, Sr. DR

Date of Hearing: 22.08.2019

Date of Pronouncement: 05.09.2019
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of the Id. CIT(A)-29, New Delhi dated 09.09.2017.

2. Before us, the assessee has taken up primarily two grounds viz. reopening of the case u/s 148 of the Income Tax Act and confirming of the addition made u/s 10(38) of the Act. When asked about the ground regarding the reopening u/s 148 of the Act, the Id. AR argued that this ground has been subsumed in the ground no. 2 of the assessee filed before the Id. CIT (A). We find that the Id. CIT (A) has passed an *ex-parte* order and held that the order is being decided on merits based on the material available on the record. However, the issue of reopening has not been adjudicated by the Id. CIT (A). Even, if

it is considered as additional grounds taken by the assessee for the first time before us, since the revenue had not got the opportunity to go through the factum of the reopening, we hereby remand the matter back to the file of Id. CIT (A) to adjudicate afresh taking into consideration the submission of the assessee. We believe, the assessee would not misuse the trust reposed upon and comply with the notices issued by the Id. CIT (A) promptly without taking any unnecessary adjournments.

3. In the result, the appeal of the assessee is allowed for statistical purpose.

(Order Pronounced in the Open Court on 05/09/2019).

Sd/-

(Amit Shukla)
Judicial Member

Dated: 05/09/2019

Subodh

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR