

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

**BEFORE SH. R. K. PANDA, ACCOUNTANT MEMBER  
AND  
SH. KULDIP SINGH, JUDICIAL MEMBER**

ITA No.1288/Del/2014  
Assessment Year: 2009-10

Vasundhara The Educations 2389, GF/ Basement, Hudson Lane, Kingsway Camp, Delhi-110009 PAN No.AEFPV0913E	Vs	ITO Ward- 20 (4) New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Shashi Chandra, AR
Respondent by	Dr. Vijay Kumar Chadha, Sr. DR

Date of hearing:	11/09/2019
Date of Pronouncement:	13/09/2019

**ORDER**

**PER R.K. PANDA, AM:**

This appeal filed by the assessee is directed the exparte order dated 22.10.2013 of the CIT(A)-22, New Delhi relating to A. Y. 2009-10.

2. Levy of penalty of Rs.3,32,420/-by the Assessing Officer u/s. 271 (1) (c ) of the IT Act which has been confirmed by the CIT(A) is the only issue raised by the assessee in the grounds of appeal.

3. Facts of the case, in brief, are that the assessee is an individual and engaged in the business of consultancy under

the name and style of M/s The Educations. She filed her return of income on 25.09.2009 declaring total income of Rs.7,05,340/-. The Assessing Officer completed the assessment u/s. 143 (3) on 24.12.2011 determining the total income of the assessee at Rs.16,48,910/- wherein he made addition of Rs.9,00,000/- on account of transactions through undisclosed bank account or receipt from bogus gifts, Rs.3,337/- on account of disallowance of motor car expenses and Rs.15,182/- disallowed out of Telephone expenses. The Assessing Officer thereafter initiated penalty proceedings u/s. 271 (1) (c) of the IT Act. Rejecting the various explanation given by the assessee the Assessing Officer levied penalty of Rs.3,32,420/- u/s 271 (1) (c) of the IT Act, 1961 being 100% of tax sought to be evaded.

4. In appeal the Ld. CIT(A) dismissed the appeal filed by the assessee by applying the ratio laid down by the Tribunal in the case of CIT Vs. Multiplan (India) Private Limited reported in 38 ITD 320 and the decision of Hon'ble Supreme Court in the case of CIT Vs. B. N. Bhattacharjee reported in 118 ITR 461.

5. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

6. We have considered the rival arguments made by both the sides and perused the orders of the authorities below. We find the Ld. CITA) dismissed the appeal filed by the assessee on account of non appearance before him by applying the ratio laid down by the Tribunal in the case of CIT Vs. Multiplan (India) Private Limited reported in 38 ITD 320 and the decision of Hon'ble Supreme Court in the case of CIT Vs. B. N.

Bhattacharjee reported in 118 ITR 461. However, he has not decided the appeal on merit which he is required to do. The Ld. Counsel for the assessee also explained the reasons for non appearance before the CIT(A) and pleaded that given an opportunity the assessee is in a position to substantiate her case before the CIT(A). Considering the totality of the facts of the case and in the interest of justice we deem it proper to restore the issue to the file of the CIT(A) with a direction to grant one final opportunity to the assessee to substantiate her case and decide the issue as per law. The assessee is also hereby directed to appear before the CIT(A) without seeking any adjournment under any pretext failing which the Ld. CIT(A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purpose.

7. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 13.09.2019.

Sd/-  
**(KULDIP SINGH)**  
**JUDICIAL MEMBER**

Sd/-  
**(R.K PANDA)**  
**ACCOUNTANT MEMBER**

\*Neha\*

Date:- 13.09.2019

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	12.09.2019
Date on which the typed draft is placed before the dictating Member	12.09.2019
Date on which the approved draft comes to the Sr.PS/PS	12.09.2019
Date on which the fair order is placed before the Dictating Member for Pronouncement	12.09.2019
Date on which the fair order comes back to the Sr. PS/ PS	12.09.2019
Date on which the final order is uploaded on the website of ITAT	13.09.2019
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	