

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH 'A' CHANDIGARH**

**श्रीमती दिवा सिंह, न्यायिक सदस्य एवं, एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE: SMT. DIVA SINGH, JM & SMT. ANNAPURNA GUPTA, AM**

आयकर अपील सं./ITA No. 315/CHD/2019

निर्धारण वर्ष / Assessment Year. : 2009-10

Shri Dharam Pal Garg, SCO 804, Ground Floor, NAC, Old Kalka Road, Mani Majra, Chandigarh.	बनाम VS	The DCIT, Central Circle-I, Chandigarh.
स्थायी लेखा सं./PAN /TAN No: AKYPP9605J		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Ashok Goyal

राजस्व की ओर से/Revenue by : Smt. Meenakshi Vohra, Sr.DR

सुनवाई की तारीख/Date of Hearing : 23.09.2019

उद्घोषणा की तारीख/Date of Pronouncement : 04.10.2019

आदेश/ORDER

PER DIVA SINGH

The present appeal has been filed by the assessee wherein the correctness of the order dated 30.01.2019 of CAT(A)-3 Gurgaon pertaining to 2009-10 assessment year is assailed on various grounds on merit.

2. The Ld. AR inviting attention to the impugned order submitted that the assessee could not participate on the three occasions when the notice for the hearing was stated to have been sent. It was submitted that he was unable to

readily address whether the notices were received by the assessee or not, however, the assessee is interested in pursuing the appeal filed as the grievance of the assessee remains. In the circumstances, it was his limited prayer that the issue may be set aside back to the file of the CIT(A) accepting the oral undertaking of the ld. AR that the assessee shall participate in the proceedings.

3. The ld. CIT-DR considering the fact that the order passed is an ex-parte order, made no objection to the prayer for remand.

4. We have heard the rival submissions and perused the material available on record. It is seen that before passing of the order dated 30.01.2019 the ld. CIT(A) takes note of the fact that the appeal had been fixed for hearing on 27.06.2018, 23.08.2018 and 25.01.2019. It is seen that there is no mention in the order as to how the notices were sent to the assessee. Even otherwise, it is seen that no specific argument has been advanced for non-representation. However, the fact remains that the appeal has been dismissed for non-representation. Accordingly, in the interests of substantial justice accepting oral undertaking given by the ld. AR, the impugned order is set aside back to the file of the CIT(A) with a direction to pass a speaking order in accordance with law after giving the assessee a

reasonable opportunity of being heard. While so directing, it is deemed appropriate to add a word of caution to the assessee not to abuse the trust reposed in fair and full participation in the proceedings before the CIT(A) in its own interests fairly which it is made clear that in the eventuality of abuse of the trust, the ld. CIT(A) would be at liberty to pass an order on the basis of material available on record. Said order was pronounced in the Open Court at the time of hearing itself.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 4th October, 2019.

Sd/-

(अन्नपूर्णा गुप्ता)

(ANNAPURNA GUPTA)

लेखा सदस्य/ Accountant Member

Sd/-

(दिवा सिंह)

(DIVA SINGH)

न्यायिक सदस्य/ Judicial Member

"Poonam"

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar