

IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'SMC' : NEW DELHI)  
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
ITA NO. 1535/DEL/2019  
(A.Y. 2012-13)

MANJIT SINGH GAHLOT, A-1/18, DWARKA MOR, METRO STATION, SEWAK PARK, NAJAFGARH ROAD, UTTAM NAGAR, NEW DELHI - 59 (PAN: AAKPG1155C) (APPELLANT)	VS.	ITO, WARD 43(5), NEW DELHI  (RESPONDENT)
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Assessee By	NONE
Revenue By	MS. EKTA VISHNOI, SR. DR.

**ORDER**

Assessee has filed this appeal against the impugned order dated 08.1.2019 passed by Ld. CIT(A)-15, New Delhi relevant to assessment year 2012-13 on the following grounds:-

"1. *On the facts and circumstances of the case, the order passed by the learned CIT (Appeal) is bad both in the eye of law and on facts.*

2. *On the facts and circumstances of the case, the Appeal dismissed by the CIT(A) is untenable in the eyes of law as no satisfaction was recorded by the CIT (A) in dismissing the appeal for non attendance and in dismissing the appeal by sustaining the addition made by the assessing officer.*

3. *On the facts and circumstances of the case, the learned CIT (A) has erred by rejecting Appeal filled by Assessee without affording an opportunity of being*

*heard and by denying to the assessee the "Principal of Natural Justice".*

*4. On the facts and circumstances of the case, the learned CIT (A) has erred by failing to dismissed the appeal, where the counsel of the assessee had never missed his attendance on any date on which hearing was fixed and couldn't attend the Appellant Proceedings for the reason beyond the control of assessee on final date of hearing.*

*5. That the Ld.CIT (Appeals) had failed to consider the submissions made by the Assessee and has passed the impugned order without appreciating the evidence already placed on record by the AppeHant. The Ld. CIT (Appeals) failed to appreciate the merits of the case and passed the impugned order with a pre-meditated mindset.*

*6. On the facts and circumstances of the case, the order passed by the learned Assessing Officer (AO) is bad, both in the eye of law and on the facts.*

*7. On the facts and circumstances of the case, the learned A.O. has erred both on facts and in law in making assessment at an income of Rs.12,87,660/- as against returned income of Rs.3,89,160/- filed by the assessee.*

*8. On the facts and circumstances of the case, the learned A.O. has erred, both on facts and in law, in initiating the proceedings under Section 147, read with Section 148, ignoring the fact that the same was bad in the eye of law as the condition and procedure prescribed under the statute have not been satisfied and complied with.*

*9. On the facts and circumstances of the case, the reassessment proceedings initiated by the learned AO are bad in the eye of law as the reasons recorded for the issue of notice under Section 148 are bad in the eye of law.*

*10. On the facts and circumstances of the case, the reassessment proceedings initiated under Section 148 are bad in law as there is no live nexus in the reasons recorded and the belief formed by the AO.*

*11. On the facts and circumstances of the case, the learned Appellant Authority / AO has erred both on facts*

*and in law in drawing adverse inference against the assessee on the basis of material collected at the back of the assessee and without giving it proper and adequate opportunity to rebut the same.*

*12. On the facts and circumstances of the case, the learned Appellant Authority / AO has erred both on facts and in law in making the said addition solely relying on the information received from the investigation wing.*

*13. On the facts and circumstances of the case, the addition made by the learned AO is untenable in the eye of law having been made without providing opportunity to cross examine the person on the basis of whose statement the allegations have been made against the assessee and without following the principle of natural justice.*

*14. (i) On the facts and circumstances of the case the learned Appellant Authority /AO has erred both on facts and in law in making the addition without applying his mind and ignoring the detailed explanations made by the assessee in this regard.*

*(ii) That the above said addition has been made by indulging in surmises, conjectures and without bringing any material on record.*

*15. (i) On the facts and circumstances of the case, the learned Appellant Authority/AO has erred both on facts and in law in making addition of an amount of Rs.8,98,500/- on account of capitation fees received in cash by M/s Santosh Medical college.*

*(ii) That the above said addition has been made by the Appellant Authority / AO arbitrarily without bringing on record any evidence to justify the payment of fee by the assessee.*

*16. On the facts and circumstances of the case, the learned AO has erred both on facts and in law in charging interest under Section 234A, Section 234B and Section 234C of the Act. .•*

*17. The above grounds of appeal are all independent and without prejudice to one another.*

*18. The Appellant further seeks leave of this Hon'ble Tribunal to alter, amend, modify, amplify or withdraw*

*any or all the above grounds of appeal, or add any further grounds, before or at the time of hearing.”*

2. Facts narrated by the revenue authorities are not disputed by the Ld. DR, hence, the same are not repeated here for the sake of convenience.

3. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor his authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, I am of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, I am deciding the present appeal *ex parte* qua assessee, after hearing the Ld. DR and perusing the records.

4. After perusing the impugned order, it is found that Ld. CIT(A) has passed the *ex parte* impugned order against the assessee without giving adequate opportunity to the assessee.

5. On the contrary, Ld. DR relied upon the order of the Ld. CIT(A).

6. I have heard Ld. DR and perused the records especially the impugned order passed by the Ld. First Appellate Authority. I find that the assessee remain non-cooperative before the Ld. CIT(A). But in my view sufficient opportunity of hearing for substantiating the claim of the

assessee has not been given by the Ld. CIT(A) to the assessee, who vide his impugned order dated 08.01.2019 has decided the appeal of the assessee ex parte. Therefore, in the interest of justice, the issues in dispute are remitted back to the file of the Ld. CIT(A) to decide the same afresh, after giving adequate opportunity of being heard to the assessee.

7. In the result, the Appeal of the Assessee is allowed for statistical purposes.

Order pronounced on this 10th day of October, 2019.

Sd/-

**(H.S. SIDHU)**  
**JUDICIAL MEMBER**

Dated the 10<sup>th</sup> day of October, 2019

SRB

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A), New Delhi.
5. CIT(ITAT), New Delhi

AR, ITAT