

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "B": NEW DELHI**

**BEFORE  
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
AND  
SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA No. 1130/Del/2017  
Asstt. Year: 2012-13

E Daksh Marketing Pvt. Ltd. U-148, Shakarpur Delhi 110 092 PAN AABCE0648Q	Vs.	ITO, Ward-8(1) New Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by:	None
Department by :	Shri G. Johnson, Sr. DR
Date of Hearing	01/08/2019
Date of pronouncement	18/10/2019

**ORDER**

**PER SUDHANSHU SRIVASTAVA, JM:**

This appeal preferred by the assessee against order dated 6.1.2017 passed by the Ld. CIT(Appeals)-3 New Delhi. The appeal pertains to assessment year 2012-13.

2. None was present for the assessee when the appeal was called out for hearing. No adjournment application has also been received in this regard. However we find that the notice of hearing issued by the registry of Tribunal has been returned unserved. Therefore we have no other option but to proceed ex parte qua the assessee.

3. Ld. Sr. DR referred to the order of the Ld. CIT(A) and submitted that the assessee did not appear even before the Ld. CIT(A) and therefore it was apparent that the assessee was not interested in pursuing the appeal. It was submitted that the assessee's appeal be dismissed at the threshold itself for failure to appear before the Tribunal.

4. We have heard the Sr. DR and have also perused the impugned order. It is apparent from the perusal of the order that the Ld. CIT(A) has not adjudicated the assessee's appeal on merits but has dismissed it for the reason of non appearance before him. It is settled law that the Ld. First appellate authority is required to adjudicate the issues before him on merits even in absence of the appellant. Accordingly, in view of the dismissal of the assessee's appeal by the Ld. First appellate authority for the reason of non appearance / non prosecution, we restore this file

back to the office of the Ld. CIT(A) with the direction to pass the appellate order on merits after giving due opportunity to the assessee to present its case.

5. In the final result appeal of the assessee stands allowed for statistical purposes.

**Order pronounced in the open court on 18<sup>th</sup> October, 2019.**

**sd/-**

**(O.P. KANT)  
ACCOUNTANT MEMBER**

**sd/-**

**(SUDHANSHU SRIVASTAVA)  
JUDICIAL MEMBER**

Dated: 18.10.2019

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi