

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH SMC, NEW DELHI**

**BEFORE
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 842/Del/2018
Asstt. Year: 2009-10

Devender Kumar, H.N. 218, Sewa Nagar, Ghaziabad, Uttar Pradesh. PAN AWTPK0215E	Vs.	ITO, Ward-1(2) Ghaziabad.
(Appellant)		(Respondent)

Assessee by:	Shri Nikunj Garg, CA
Department by :	Shri Umesh Takyar, Sr.DR
Date of Hearing	30/10/2019
Date of pronouncement	31/10/2019

ORDER

PER SUDHANSHU SRIVASTAVA, JM:

This appeal is preferred by the assessee against order dated 30.11.2017 passed by the Ld. CIT (Appeals), Ghaziabad and pertains to assessment year 2009-10. The Ld. AR has submitted an application for adjournment. However, looking into the facts of

the case the adjournment is refused and we are proceeding to dispose of the case.

2. A perusal of the impugned order shows that the assessee had sought to file additional evidences before the Ld. CIT (Appeals). However, the Ld. CIT (Appeals) refused admitting additional evidence. In ground No 3 of the assessee's appeal before us, the assessee has challenged the action of the Ld. CIT (Appeals) in not allowing filing of additional evidences which were crucial for ascertaining the facts of the case and which go to the very root of the matter. The Ld. Sr. DR has submitted that the assessee has not given any cogent reason for not filing the evidences before the Assessing Officer during the course of assessment proceedings and therefore the Ld. CIT (Appeals) had rightly refused the admission of additional evidences.

3. Having heard both the parties and on the facts of the case, without going into the merits of the case and in interest of substantial justice, we restore the appeal to the office of the Ld. CIT (Appeals) with a direction to adjudicate the assessee's appeal after admitting additional evidences being sought to be admitted by the assessee. The Ld. CIT (A) is directed to afford proper opportunity to the assessee in this regard. The assessee shall

move a fresh application for admitting the additional evidences along with a copy of this order before the Ld. CIT (Appeals) on or before 3rd February, 2020.

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

sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

sd/-

**(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER**

Dated: 31/10/2019

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

ASSISTANT REGISTRAR
ITAT, New Delhi