

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC' DELHI**

**BEFORE SHRI G.S. PANNU, HON'BLE VICE PRESIDENT**

**ITA NO. 4980/DEL/2019  
AY : 2010-11**

M/s Fidelity Infrastructure and Technology Pvt. Ltd., H-2, Pushpanjali Farms, Near to Bharat Petroleum, Dwarka Highway, New Delhi-110061 (Appellant)	vs	Income Tax Officer, Ward-9 (2), Karnal.  (Respondent)
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Appellant by: Shri V. Raja Kumar, Advocate  
Respondent by: Ms Ekta Vishnoi, Sr. DR  
Date of hearing : 25.09.2019  
Date of pronouncement: 31.10.2019

**ORDER**

This appeal has been preferred by the assessee against the order of the learned Commissioner of Income Tax(A)-3, New Delhi dated 27.01.2018 for assessment year 2010-11.

2. At the outset, without referring to the merits of the additions assailed in this appeal, the learned representative pointed out that the Commissioner of Income Tax(A) has disposed of the appeal of the assessee in an ex parte manner and that due and adequate opportunity of hearing was denied to the assessee. The learned representative referred to para 4 to 4.2 of the order of the Commissioner of Income Tax(A) to point out that the appeal was decided ex

parte on a wrong footing. He pointed out that on the appointed date of hearing, the representative of the assessee had made compliance and a letter was furnished, seeking time of three weeks. The said request was denied by the Commissioner of Income Tax(A) by making a wrong observation that the CA firm did not file its authorisation letter /power of attorney. In this context, the learned representative for the assessee referred to a communication dated 27.11.2018, addressed to the Commissioner of Income Tax(A), wherein a request letter of authorisation/power of attorney was enclosed. For the aforesaid reason, the learned representative submitted that the assessee would be satisfied if the matter is restored back to the file of the Commissioner of Income Tax(A) for adjudication afresh after hearing the assessee.

3. Learned DR appearing for the Revenue has not seriously opposed the plea of the assessee for remanding the matter back to the file of the Commissioner of Income Tax(A).

4. I have carefully considered the rival stands. I find that the Commissioner of Income Tax(A) has proceeded to dispose of the appeal in the absence of the assessee without cogent reasons. In fact, the assessee duly complied with the notice of hearing and sought adjournment which has been wrongly rejected on a mistaken plea that the requisite power of attorney/authorisation letter from the appellant was not furnished. In fact, in the Tabulation prepared by the Commissioner of Income Tax(A) in para 4 of his order, with reference to the

first date of hearing i.e. 24.12.2018, the C.I.T.(A) observed that adjournment was sought by the representative of the assessee. The same representative sought adjournment on the appointed date of hearing i.e. 26.3.2019. Ostensibly, on an earlier occasion, the same representative has appeared and sought for adjournment, which was granted by the Commissioner of Income Tax(A), then on a later date the request cannot be justifiably rejected for want of authorisation letter. In any case, the assessee has shown that on the very first date of hearing i.e. 24.12.2018, the request for adjournment was furnished along with letter of authorisation. Be that as it may, I deem it fit to set aside the order of the Commissioner of Income Tax(A) and restore the matter back to his file for adjudication afresh in accordance with law, after allowing the assessee a reasonable opportunity of being heard.

5. Thus, without going into the merits of the addition assailed in this appeal, the matter is remanded back to the file of the Commissioner of Income Tax(A) as above.

6. In the result, for statistical purposes, the appeal is allowed.

Order pronounced in the open court on 31.10.2019.

**Sd/-**  
**(G.S. PANNU)**  
**VICE PRESIDENT**

**DATED: 31st OCTOBER, 2019**  
**‘GS’**

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

By Order

Asstt. Registrar  
ITAT, New Delhi

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Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
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Date on which the file goes to the Head Clerk	
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