

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ “आई-2”, नई दिल्ली में

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH ‘I-2’, NEW DELHI**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री आर.कापांडा, लखा सदस्य का समक्ष

**BEFORE MS. SUSHMA CHOWLA, JUDICIAL MEMBER &
SHRI R.K.PANDA, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA Nos.1504 & 1505/Del/2017
निर्धारण वर्ष / Assessment Years: 2008-09 & 2009-10

Tei Technologies Pvt.Ltd.,
A-15, Hosiery Complex,
Phase-II, Noida-201305.
PAN-AABCT1466B

.....अपीलार्थी / Appellant

vs

The ACIT,
Circle-16(1), New Delhi

..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर स□/ Appellant by : None

प्रत्यर्थी की ओर स□/ Respondent by : Ms. Nidhi Sharma, Sr.DR

सुनवाई की तारीख / Date of Hearing: 07.11.2019	घोषणा की तारीख / Date of Pronouncement: 08.11.2019
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

Both appeals filed by assessee are against order of CIT(A)-38, New Delhi, dated 15.11.2016 relating to assessment years 2008-09 & 2009-10 respectively passed under section 143(3) of the Income-tax Act, 1961 (in short “Act”).

2. Both these appeals relating to the same assessee on similar issues were heard together and are being disposed off by this consolidated order for the sake of convenience.

3. The appeal was fixed for hearing on different dates but the notice of hearing was returned by the postal authorities. On the last date of hearing, direction was given to issue notice through the Ld. DR for the Revenue. In compliance, the Ld. DR for the Revenue has filed the compliance report of the Assessing Officer concerned and the notice of hearing has been affixed on the aforesaid address of the assessee. However, none appeared on behalf of the assessee and we proceed to decide the present appeals after hearing the Ld. DR for the Revenue.

4. The perusal of record reflects that the CIT(A) had passed the order ex-parte the assessee. Though the CIT(A) talks of various notices issued to the assessee against which adjournment applications were moved, however, on some dates, none appeared in-compliance to the adjournment earlier granted. Hence, the appeal was decided ex-parte the assessee.

5. The only issue arising in the present appeal is the determination of arms length price of international transaction undertaken by the assessee. The perusal of the order of the CIT(A) reflects that though reference is made to the various grounds of appeal raised by the assessee but the issue has not been decided on merits. It is the requirement of law that even if the issues are decided ex-parte the assessee, the merits

of the case should be noted and adjudication should be made on the issues so raised. However, the order of the CIT(A) in the present case suffers from infirmities. In view thereof, we deem it fit to restore the issue back to the file of CIT(A) who shall decide the issue on merits. Reasonable opportunity of hearing be given to the assessee and even the assessee is directed to appear and put forward its contentions before the CIT(A). Hence, the appeals filed by the assessee for both captioned Assessment Years stand allowed. Since we are remitting the matter back to the file of CIT(A), we are not adjudicating the issue on merits.

6. In the result, both appeals filed by the assessee are allowed.

Order pronounced in the open court on 08th day of November, 2019.

Sd/-

(R.K.PANDA)

लक्षा सदस्य/ACCOUNTANT MEMBER

दिल्ली / दिनांक Dated : 08th November, 2019.

* Amit Kumar *

आदशा की प्रतिलिपि अग्रहित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. मुख्य आयकर आयुक्त / The Pr. CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, दिल्ली / DR, ITAT, Delhi
6. गार्ड फाईल / Guard file.

Sd/-

(SUSHMA CHOWLA)

न्यायिक सदस्य/JUDICIAL MEMBER

आदशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक रजिस्ट्रार, आयकर अपीलीय अधिकरण ,दिल्ली
Assistant Registrar, ITAT, Delhi