

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

**BEFORE SHRI G.S. PANNU, HON'BLE VICE PRESIDENT
AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

Stay No. 1056/Del/2019
ITA No. 1990/Del/2018
Asstt. Year: 2014-15

NCR Vehicles P. Ltd., C/o R N Marwah & CO. LLP, CAs 4/80, Janpath, New Delhi – 110 001 PAN AAACN5816G	Vs.	ITO, Ward-18 (1) New Delhi.
(Appellant)		(Respondent)

ITA No. 1990/Del/2018
Asstt. Year 2014-15

NCR Vehicles P. Ltd., C/o R N Marwah & CO. LLP, CAs 4/80, Janpath, New Delhi – 110 001 PAN AAACN5816G	Vs.	ITO, Ward-18 (1) New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri U.N. Marwah, CA
Department by :	Shri Saras Kumar, Sr.DR
Date of Hearing	22/11/2019
Date of pronouncement	26/11/2019

ORDER

PER SUDHANSHU SRIVASTAVA J.M.:

By means of this stay application, the applicant has sought stay of outstanding demand of Rs. 90,85,370/- including interest for assessment year 2014-15. The appeal filed by the assessee challenges the order of the Ld. CIT(A) dated 28.12.2017 passed by the Ld. CIT(A), 6, Delhi wherein the assessee's appeal challenging various additions / disallowances made by the AO to the tune of Rs. 189,88,906/- has been dismissed.

2. Ld. AR submits that the assessee's appeal was dismissed ex parte by the Ld. CIT(A). It is also submitted that the AO has also passed ex parte order u/s 144 of the Income Tax Act 1961. It is the prayer of the Ld. AR that a complete stay of the outstanding demand be granted as the orders passed by both the lower authorities have been passed ex parte without the assessee being given an opportunity to defend its case. In the alternate, it has been submitted by the Ld. AR that the appeal of the assessee be restored to the file of the Ld. CIT(A) so that the assessee has an opportunity to defend its case in appropriate manner before the Ld. First Appellate Authority.

3. Ld. Sr. DR has submitted that the assessee was neither present before the AO nor was present before the Ld. First Appellate Authority and this conduct of the assessee should not be condoned. Ld. Sr. DR has opposed the assessee's prayer for complete stay of demand as well as the alternate prayer for restoring the assessee's appeal to the office of the Ld. CIT(A).

4. We have heard the rival submissions and have also perused the material on record. It is evident from the perusal of both the

orders of the lower authorities that these orders have been passed ex parte qua the assessee. It has been duly mentioned in the assessment order that the assessee was given several opportunities. However, no response was forthcoming from the assessee. Similarly, it is seen that the Ld. CIT(A) has noted that the assessee had not complied even with a single notice issued by the office of the Ld. CIT(A). This conduct of the assessee is deprecated. However, we do feel that the Ld. CIT(A) should have adjudicated the appeal before her on merits. Therefore, in the interest of substantial justice, we restore this file to the office of the Ld. CIT(A) with the direction to adjudicate the issues on merits after giving due opportunity to the assessee to present its case. The assessee is directed to deposit an amount of Rs. 10,000/- as cost in the Prime Minister's National Relief Fund within 30 days of this order and produce a proof of the same along with the copy of this order before the Ld. CIT(A). Assessee is also directed to fully cooperate this time in the first appellate proceedings and provide the required information when called upon to do so failing which the Ld. CIT(A) will be at liberty to proceed ex parte qua the assessee as per the provisions of law.

5. Since the appeal of the assessee is disposed of in terms of our aforesaid directions, the stay application of the assessee becomes infructuous and is dismissed as such.

6. In the final result, the stay application of the assessee stands dismissed while the appeal of the assessee stands allowed for statistical purposes.

Order Pronounced in the open court on 26th November, 2019.

sd/-

**(G.S. PANNU)
VICE PRESIDENT**

sd/-

**(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER**

Dated: 26/11/2019

Veena

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi