

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

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 5247/Del/2018
Assessment Year: 2014-15

Rajinder Kumar Gupta,
AG-31, Shalimar Bagh,
New Delhi
(PAN:AAKPG6054A)
(ASSEESSEE)

vs. INCOME TAX OFFICER,
WARD-34(2), NEW DELHI

(RESPONDENT)

Assessee by: Sh. Rakesh Jain, C.A.

Revenue by: Sh. Manoj Kumar Chopra, Sr. DR.

ORDER

This appeal is filed by the assessee against the Order dated 13.04.2018 passed by the Ld. CIT(A)-12, New Delhi relating to Assessment Year 2014-15 on the following grounds:-

- 1. That on the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in passing the order without giving reasonable opportunity.*
- 2. That on the facts and in the circumstances of the case, the Ld. CIT(A) while discharging his duties violated the principle of natural justice as no sufficient opportunity was granted to the Assessee despite formal request for adjournment.*
- 3. That on the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in confirming the addition of Rs.2805604 /- made by the AO by wrongly treating the said sum as income from undisclosed sources after rejecting the claim of Long Term Capital Gains on sale of shares of M/s Unno Industries Ltd.*
- 4. That on the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in confirming the addition of Rs. 28056/- made by the AO on account of brokerage / commission paid to broker.*

5. *That the whole addition was made by the Ld AO on the basis of preconceived notions , ignoring the submissions and evidences , ignoring the law and facts of the case, without making proper enquiries and investigations, without providing reasonable opportunity and without application of mind.*

6. *That Your Petitioner craves leave to amend, modify and/or alter grounds and/or to adduce and rely upon such further evidence and/or to adduce and rely upon such further evidence and/or documents as may be required at any time before and during the time of hearing.*

2. At the time of hearing, learned counsel for the assessee stated that the learned First Appellate Authority has passed the impugned order ex parte without providing sufficient opportunity to the assessee. He requested that the issues in dispute may be set aside to the learned First Appellate Authority to decide the same afresh, as per law, after giving opportunity to the assessee. He undertakes that assessee will cooperate for disposing the appeal before the learned First Appellate Authority as directed by this Bench. He further stated that the issues in dispute has already been decided in favour of the assessee by the ITAT Delhi Bench 'F', New Delhi in the case of Shri Rajeev Agarwal & Sons vs. Income-tax Officer. He has also filed a copy of this order and requested that the issues in dispute may be set aside to the learned First Appellate Authority to decide the same, as per law, after giving opportunity to the assessee.

3. Learned DR has not raised any serious objection on the request of the learned counsel for the assessee.

4. After hearing both the parties and perusing the orders passed by the Revenue authorities, especially the impugned order passed by the learned First Appellate Authority dated 13.04.2018, I am of the considered view

that learned First Appellate Authority has not provided sufficient opportunity to the assessee and decided the issues in dispute against the assessee ex parte. Therefore, in the interest of justice, I am setting aside the issues in dispute to the learned First Appellate Authority to decide the same afresh, as per law, after providing sufficient opportunity to the assessee. Keeping in view of non cooperation of the assessee and undertaking given by the learned counsel for the assessee to appear before the learned First Appellate Authority and cooperate in the speedy disposal of the appeal, I am directing the assessee through his counsel to appear before the learned First Appellate Authority on 23.03.2020. There is no need to issue notice to the assessee because this order has been pronounced in the Open Court.

5. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 07/01/2020.

Sd/-
[H.S. SIDHU]
JUDICIAL MEMBER

Date: 07/01/2020
SH

Copy forwarded to: -

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches