

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

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 3203/Del/2019
Assessment Year: 2013-14

Gopal Chand Taneja (HUF), vs.
895, Nai Sarak, New Delhi
(PAN:AADHG7763D)
(ASSESSEE)

INCOME TAX OFFICER,
WARD-46(2), NEW DELHI

(RESPONDENT)

Assessee by: None

Revenue by: Sh. Pradeep Singh Gautam, Sr. DR.

ORDER

This appeal is filed by the assessee against the Order dated 27.03.2017 passed by the Ld. CIT(A)-16, New Delhi, relating to Assessment Year 2013-14 on the following grounds:-

1. That the learned Commissioner of Income Tax (Appeals) has further erred both in law and on facts in upholding the order of assessment at an income of Rs. 29, 88,664/-, as against the returned income of Rs. 18,64,480/-.

2. That the leaned Commissioner of Income Tax (Appeals) has grossly erred in law and on facts in passing the order in utter disregard of the statutory provisions contained under section 250(6) of the Act by dismissing the appeal of the appellant ex parte, violating the principles of natural justice.

2.1 That the learned Commissioner of Income Tax (Appeals) has overlooked the provisions of Section 250(6) of the Act, as the order passed by him is non speaking and without affording any proper opportunity of being heard to the appellant.

2.2 That the learned Commissioner of Income fax (Appeals) has ignored various judicial rulings, wherein it was held that section 250(6) makes it obligator) for the CIT(A) to pass a speaking order deciding

the points raised in appeal, stating his reasons for the decision, as such.

2.3 That the learned Commissioner of Income Tax (Appeals) ought not to have decided the appeal of the appellants ex parte on a technical ground that the appeal should have been filed in electronic form instead of paper form and that too without providing any valid opportunity to rectify the said technical defect.

3. That further, the learned Commissioner of Income Tax (Appeals) has also failed to appreciate the fact that addition so made by learned assessing officer of a sum of Rs. 10, 80, 000/- is based on preconceived notions and by arbitrarily brushing aside the detailed submissions/evidences/material placed on record, which were furnished in order to support the fact that no addition was called for in the instant case.

4. That the learned Commissioner of Income Tax (Appeals) has further erred in sustaining a disallowance of Rs. 44,184/- on account of service tax paid on j account of rent received from M/s Corporation Bank.”

2. The assessee has filed this appeal on 01.03.2019. Registry issued RPAD to the assessee for 24.09.2019. In response to the same, assessee nor his authorized representative appeared nor filed any application for adjournment. The Bench adjourned the matter for 01.01.2020 and issued RPAD notice to the assessee on the address given by the assessee in Form No. 36. Again on 01.01.2020, assessee nor his authorized representative appear nor filed any application for adjournment. I am of the view that no useful purpose would be served to issue notice again and again to the assessee on the address given by the assessee in Form no. 36, therefore, I am deciding the appeal ex parte assessee, after hearing the learned DR.

3. I have gone through the orders passed by the Revenue authorities especially the impugned order passed by the learned First Appellate Authority dated 27.03.2017, I am of the view that Ld. CIT(A) has passed ex parte impugned order and without providing sufficient opportunity to the assessee and also passed the non speaking order, which is not sustainable in the eyes of law. Therefore, I am cancelling the impugned order and setting aside the issues in dispute to the learned First Appellate Authority to decide the same afresh, as per law, after giving opportunity to the assessee. It is made clear that assessee will remove the defects as pointed out by the learned First Appellate Authority in the impugned order and thereafter learned First Appellate Authority will decide the issues in dispute as per law, after providing sufficient opportunity to the assessee.

4. In the result, the appeal 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