

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

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 3351/Del/2019
Assessment Year: 2014-15

M/s Cohesive Management
Consultants Pvt. Ltd.,
305, Bakshi House,
Nehru Place, New Delhi
(PAN:AADCC6393E)
(ASSEESSEE)

vs. INCOME TAX OFFICER,
WARD-6(2), NEW DELHI

(RESPONDENT)

Assessee by: Sh. Surender Kumar, CA
Sh. Rahul Chaurasia, CA

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

ORDER

This appeal is filed by the assessee against the Order dated 27.02.2019 passed by the Ld. CIT(A)-33, New Delhi relating to Assessment Year 2014-15 on the following grounds:-

"1. That the order dated 27-02-2019 passed u/s 250 of the Income -tax Act, 1961 (hereinafter called the "Act") by the Ld. Commissioner of Income-Tax (Appeals) -33, New Delhi, is against law and facts on the file in as much as he was not justified to pass the order ex-parte, on the basis of material available on record, without giving the Appellant Company an adequate opportunity of being heard in the matter

2. That the order dated 27-02-2019 passed u/s 250 of the Act by the Ld. Commissioner of Income-Tax (Appeals) -33, New Delhi, is against law and facts on the file in as much as he was not justified to uphold the action of the Ld Assessing Officer in making an addition of Rs. 1,76,255/- on account of expenses incurred for earning exempt income by taking recourse to the provisions of Section 14A of the Act read together with Rule 8D of the Income Tax Rules, 1962.

3. That the order dated 27-02-2019 passed u/s 250 of the Act by the Ld. Commissioner of Income-Tax (Appeals) -33, New Delhi,

is against law and facts on the file in as much as he was not justified to uphold the action of the Ld Assessing Officer in making an addition of Rs. 10,46,446/- in respect of amounts received from M/s Brightsun Merchant Pvt. Ltd towards reimbursement of certain expenses paid by the Appellant Company on its behalf by treating the same as alleged undisclosed income as per provisions of Section 68 of the Act.

4. That the order dated 27-02-2019 passed u/s 250 of the Act by the Ld. Commissioner of Income-Tax (Appeals) -33, New Delhi, is against law and facts on the file in as much as he was not justified to uphold the action of the Ld Assessing Officer in treating short-term capital gain of Rs.7,19,238/- earned by the Appellant Company in respect of purchase and sale of shares of M/s Rander Corporation Ltd as its business income."

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.

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 27.2.2019, 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