

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

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No.7864/Del/2018
Assessment Year: 2014-15

Sh. Ravinder Pal Singh,
Prop. M/s. Hargun Agencies
5498/5, 1st Floor, Gandhi Market
Sadar Bazar, Delhi
(PAN:ALRPS0278G)
(ASSESSEE)

vs.

Income Tax Officer,
Ward-63(2), New Delhi

(RESPONDENT)

Assessee by: Sh. Virender Chauhan, CA

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

ORDER

This appeal is filed by the assessee against the Order dated 27.09.2018 passed by the Ld. CIT(A)-20, New Delhi, relating to Assessment Year 2014-15.

2. After hearing both the parties and perusing the orders passed by the Revenue authorities, I am of the view that the learned First Appellate Authority has decided the issues in dispute against the assessee without providing sufficient opportunity to the assessee for substantiating his claim before him.

3. I have gone through the impugned order passed by the learned First Appellate Authority especially para no. 4.2 at page no. 21. For the sake of convenience, I reproduce para no. 4.2 as under:-

"4.2 From the above, it is apparent that the appellant has deliberately not complied on the given date of hearing despite taking specific time. All the notices were sent on E-mail address given in column

17 of form 35 as well as by speed post on the address given in column 17 of form 35 and this was served as this did not come back unserved. Reliance is placed on the decision of Hon'ble ITAT Delhi in the case of Capital Gem overseas (p.) Ltd. 101 ITD 117 where Hon'ble Bench has observed that "Thus, in view of the amended provision of the CPC, firstly, the mode of sending notice through speed/registered post is recognized mode and secondly, a presumption can be drawn regarding service by speed post within 3-4 days in the instant case, where the assessee was living in the city of Delhi. Consequently, the Commissioner (Appeals) was justified in recording the finding that notice had been validly served". Hence, it is apparent that appellant is not interested in pursuing this appeal. Hon'ble Supreme Court has also observed in the case of CIT vs. B.N. Bhattacharya (118 ITR 461) that "preferring an appeal means more than formally filing it but effectively pursuing it".

Further, reliance is also placed in the case of Rajesh Chauhan vs. ITO, ITA no 1502/Del/2017 order dated 04.07.2017, Hon'ble ITAT Delhi Bench has dismissed the appeal of the assessee by observing as under-

"2. None appeared on behalf of the assessee at the time of hearing of the appeal despite notifying the date of hearing through registered post. It therefore appears that the assessee is no more interested in prosecuting the appeal therefore the appeal of the assessee liable to be dismissed unadmitted."

4. Keeping in view the aforesaid finding given by the learned First Appellate Authority, I am of the view that learned First Appellate Authority has not given sufficient opportunity of hearing to the assessee for substantiating his claim before him. After going through the impugned order and the issues in dispute which is very much serious as well as in the interest of justice, I deem it fit to set aside the issues in dispute to the learned First Appellate Authority to decide the same afresh, as per law, after giving full opportunity of hearing and provide an opportunity to produce any evidence to the assessee. I am not giving comments on merits, because it will prejudice to the interest of parties. Keeping in view the non-cooperation of the assessee, I am directing the assessee through his counsel to appear before the learned CIT(A) on 23.03.2020 at 10:00

AM. It is made clear that learned First Appellate Authority will not issue any issue to the assessee for 23.03.2020, 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 13/01/2020.

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

Date: 13/01/2020
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