

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

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

ITA No. 9607/Del/2019
Asstt. Year: 2015-16

Shri Jatin Arora D-14, 2 nd Floor, Kalka Ji, New Delhi-110 019 PAN AHFPA8050L	Vs.	ITO Ward-30(5) New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri V. Raja Kumar, Advocate
Department by :	Shri S.N. Meena, Sr. DR
Date of Hearing	17/01/2020
Date of pronouncement	28/01/2020

ORDER

PER SUDHANSHU SRIVASTAVA, JM:

This appeal is preferred by the assessee against the order dated 24.10.2019 passed by the Ld. CIT(Appeals)- 10, New Delhi and pertains to assessment year 2015-16.

2. At the very outset, Ld. AR appearing on behalf of the assessee submitted that the assessee's appeal before the Ld. CIT(A) was dismissed ex parte by the Ld. First Appellate Authority

without examining and considering the merits of the case. Ld. AR prayed that in interest of justice, a proper opportunity should be given to the assessee to present his case before the Ld. CIT(A). Per contra, the Ld. Sr. DR opposed the prayer of the Ld. AR for granting another opportunity to the assessee and drew our attention to the observation of the Ld. CIT(A) that inspite of having given sufficient opportunities during the first appellate proceedings, the assessee failed to comply with the terms of notice issued u/s 250 of the Income Tax Act 1961 and submitted that no further opportunity should be given to the assessee.

3. Having heard both the parties and after going through the impugned order, it is apparent that the Ld. CIT(A) has passed the impugned order ex parte qua the assessee. It is also apparent that the Ld. CIT(A) has dismissed the assessee's appeal in limine without going into the merits of the case. It is our considered opinion as well as settled law that the Ld. First appellate Authority has to decide the appeal on its merits and an appeal cannot simply be dismissed for want of prosecution. Accordingly, in the interest of justice, we restore this file to the office of the Ld. CIT(A) with direction to adjudicate the appeal on merits after giving proper opportunity to the assessee. We also direct that the assessee should comply with the notice issued by the office of the Ld. First Appellate Authority in this regard, failing which the Ld. CIT(A) shall be at liberty to dispose of the appeal on merits ex parte qua the assessee in accordance with law.

4. In the final result the appeal of the assessee stands allowed for statistical purposes.

sd/-

(G.S. PANNU)
VICE PRESIDENT

Dated: 28/01/2020

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

sd/-

(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, New Delhi