

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'F': NEW DELHI)**

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 2938/Del/2015  
(Assessment Year: 2011-12)**

Medsave Healthcare (TPA) Ltd.,F-701, Lado Sarai, New Delhi.	Vs.	Addl. CIT, Range-50, New Delhi.
<b>PAN No: AABCS8148M</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Suresh Sharma, (Employee)  
**Revenue by** : Shri Sunil Kr. Yadav, Sr. DR

**ORDER**

**PER ANADEE NATH MISSHRA, AM**

**(A)** This appeal has been filed by the Assessee against the impugned appellate order dated 25.03.2015 passed by Learned Commissioner of Income Tax (Appeals)-41, New Delhi, [in short, "Ld.CIT(A)"] pertaining to Assessment Year 2011-12. The Assessee has raised following grounds of appeal:-

"1. The Ld. CIT(A) has erred in confirming the action of the AO by rejecting the claim of the appellant that sufficient opportunity was not given to the appellant by the AO to represent its case which is against natural justice and thus the impugned order needs to be struck down.

2. Without prejudice to the above the Ld. CIT(A) has erred in confirming the action of the AO imposing penalty u/s 272A(2)(k) / 274 of the I.T. Act, 1961 which

*is without application of mind to the facts and circumstances of the case and in a mechanical manner and thus the impugned order needs to be struck down.*

*3. The Ld. CIT(A) has erred in law in confirming the action of the AO imposing penalty u/s 272A(2)(k) 274 and thus the impugned order needs to be set aside.*

*4. The assessee craves leave to add, amend and delete any of the grounds of appeal at the time of hearing.”*

**(B)** Vide Assessment Order dated 24.08.2012, the Assessing Officer (“AO”, for short) levied penalty of Rs. 5,00,000/- under Section 272A(2)(k) of Income Tax Act, 1961. The Assessee filed appeal before the Ld. CIT(A). Vide impugned appellate order dated 25.03.2015, the Ld. CIT(A) confirmed the aforesaid penalty of Rs. 5,00,000/-. The present appeal has been filed by the assessee against the aforesaid impugned appellate order dated 25.03.2015 of Ld. CIT(A). At the time of hearing before us, both sides were in agreement that the AO had not provided reasonable opportunity to the assessee for imposing the aforesaid penalty. Both sides were in agreement that the issue in dispute in the present appeal may be restored back to the file of the AO for fresh order in accordance with law after providing reasonable opportunity to the assessee.

**(B.1)** In view of the foregoing, and as both sides are in agreement on this, we set aside the aforesaid impugned appellate order dated 25.03.2015 of the Ld. CIT(A) and restored the issue to the file of the AO for fresh order in accordance with law after providing reasonable opportunity to the assessee.

**(C)** In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on 22/01/20.

Sd/-  
**(H.S. SIDHU)**  
**JUDICIAL MEMBER**

Sd/-  
**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 22/01/20  
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	