

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

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

**ITA No:- 7279/Del/2019
(Assessment Year: 2014-15)**

M/s Fruto Fresh Industries Pvt. Ltd., 1102-D, Pearl Business Park, Netaji Subhash Place, Pitampura, New Delhi-110034.	Vs.	Additional Commissioner of Income Tax, Range-9, New Delhi.
PAN No: AABCF3593K		
APPELLANT		RESPONDENT

Assessee by : Shri S.S. Nagar, C.A.
Revenue by : Shri Rajeev Kumar, Sr.DR

ORDER

PER ANADEE NATH MISSHRA, AM

(A) This appeal has been filed by the Assessee against the impugned appellate order dated 03.07.2019 passed by Learned Commissioner of Income-Tax (Appeals)-3, New Delhi, [in short, "Ld.CIT(A)"] pertaining to Assessment Year 2014-15. The Assessee has raised following grounds of appeal:-

- "1. *That on the facts and circumstances of the case, Ld. CIT(A) erred in passing the ex-party order without providing an opportunity of being heard.*

- 1.1 *That on the facts and circumstances of the case, Ld. CIT(A) erred in passing the ex-order without appreciating the fact that no notice of hearing was received by the appellant and hence the order passed by Ld. CIT(A) is without jurisdiction and illegal and need to be quashed.*
2. *That on the facts and circumstances of the case, Ld. CIT(A) has wrongly interpreted of the provisions of the Section 269SS of the Act stating that the appellant has received unsecured loans of Rs. 1,83,50,000/- by mode of payment other than that specified on the said section.*
 - 2.1 *That on the facts and circumstances of the case, the Ld. CIT(A) was not justified and grossly erred by not following the jurisdictional High Court decision which was decided in favour of the appellant.*
 - 2.2 *That on the facts and circumstances of the case, the Ld. CIT(A) has grossly neglect the fact that the order of penalty u/s 271D was passed after expiry of time limit of imposition of penalty in terms of provision of sec 275(1)(c).*
3. *That the appellant craves leave to add, amend, modify rescind, supplement or alter any of the grounds stated here in above, either before or at the time of hearing of this appeal."*

(B) Vide order dated 31.07.2017; Learned Additional Commissioner of Income Tax ("Ld. Addl. CIT", for short) levied penalty of Rs. 1,83,50,000/- under Section 271D of Income Tax Act, 1961 ("I.T. Act", for short) for alleged violation of Section 269SS of I.T. Act in respect of transactions with M/s Divyarth Leasing and Finance Private Limited. The assessee filed appeal before Ld. CIT(A). Vide impugned appellate order dated 03.07.2019, Ld. CIT(A) passed an *ex-parte* order dismissing assessee's appeal as the assessee did not respond to notices issued by Ld. CIT(A). This present appeal has been filed by assessee against order of Ld. CIT(A). At the time of hearing Ld. Authorized Representative ("Ld. AR", for short) of the assessee submitted that the notices issued by Ld. CIT(A) were not received by the assessee. He submitted that the disputed issue in this present appeal may be restored to the file of the Ld. CIT(A) for

fresh order, so that the assessee has an opportunity to present its case before Ld. CIT(A). The Ld. Departmental Representative ("Ld. DR", for short) for Revenue was in agreement with these submissions of the Ld. AR of assessee. Ld. AR of the assessee also gave an assurance that unnecessary and avoidable adjournment will not be sought by the assessee.

(C) After hearing both sides, and as both sides agree to this; we restore the disputed issues in this present appeal to the file of the Ld. CIT(A) for fresh order in accordance with law, after providing opportunity to the assessee. We direct the assessee to present its Authorized Representative before Ld. CIT(A) on 25.02.2020 from 10 A.M. onwards (which was stated by Ld. AR of assessee to be convenient.)

(D) In the result, appeal filed by assessee is partly allowed.

Order pronounced in the open court on 10/02/2020.

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

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 10/02/2020
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	