

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

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

ITA No. 1226/DEL/2019
[Assessment Year: 2013-14]

JAI KUMAR,
B-6/135, SECTOR-8,
ROHINI,
DELHI – 85
(PAN: ANFPK0238G)
[Appellant]

Vs. CIT(A)-38,
NEW DELHI

[RESPONDENT]

Assessee by: Shri Satish Goyal, CA
Revenue by: Ms. Parul Singh, Sr. DR.

ORDER

This appeal is filed by the assessee is against the order of the Ld. Commissioner of Income Tax [Appeals-38], New Delhi dated 24.1.2019 pertaining to assessment year 2013-14 on the following grounds:-

1. Because the action is being challenged on facts and law, for confirming the penalty amounting to Rs. 93793/- on account of cash payments made by assessee in excess of Rs. 20000/- u/s. 40A(3) of Income Tax Act, and on account of late payment of EPF amounting to Rs. 54671/-.
2. That the addition under section 40A(3) being made under the deeming provisions, the penalty u/s. 271(1)© is not eligible on the same.
3. That in any case the addition of Rs. 54671/- on account of late payment of EPF having been deleted

by the CIT(A), no penalty on the same can be levied.

4. The appellant craves leave to add, amend or alter any of the grounds of appeal.

PRAYER

For any consequential relief and / or legal claim arising out of this appeal and for any addition, deletion, amendment and modification in the grounds of appeal before the disposal of the same in the interest of substantial justice to the assessee.

2. At the time of hearing Ld. Counsel for the assessee stated that Ld. CIT(A) has passed the ex parte impugned order without providing sufficient opportunity to the assessee. He requested that the issues in dispute may be set aside to the Ld. CIT(A) to decide the same afresh, after giving adequate opportunity of being heard to the assessee.

3. On the contrary, Ld. DR relied upon the impugned order.

4. I have heard both the parties and perused the orders of the authorities below. I am of the view that Ld. CIT(A) has not given sufficient opportunity to the assessee, therefore, in the interest of justice I am setting aside the issues in dispute to the Ld. CIT(A) to decide the same afresh after giving adequate opportunity of being heard to the assessee.

- 4.1 Keeping in view of the non-cooperation of the assessee, I am directing the assessee through his counsel to appear before the Ld. CIT(A) on **23.04.2020 at 10.00 am** for hearing. There is no need to issue the notice by the Ld. CIT(A) to the assessee, since this order has already been pronounced in the open court.

5. In the result, the Appeal of the Assessee is allowed for statistical purposes.

The order pronounced on 19.02.2020.

Sd/-

[H.S. SIDHU]
JUDICIAL MEMBER

Dated:19-02-2020

SRB

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

