

**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:- 2005/Del/2016
(Assessment Year: 2011-12)**

M/s Nirvan Pharmaceuticals Pvt. Ltd., H-4/9 Model Town II, New Delhi.	Vs.	AO Circle 13(1), New Delhi.
PAN No: AAACN4527A		
APPELLANT		RESPONDENT

Assessee By : Shri B.L. Gupta, C.A.
Revenue By : Shri Jagdish Singh, Sr. DR

Per Anadee Nath Misshra, AM

(A) This appeal by Assessee is filed against the impugned appellate order of Learned Commissioner of Income Tax (Appeals)-6, Delhi ["Ld. CIT(A)", for short], dated 15.02.2016 for Assessment Year 2011-12. Grounds taken in this appeal of Assessee are as under:

"On the facts and in the circumstances of the case and in law, the Ld. CIT (A) was incorrect and unjustified in

- a) *Dismissing the appeal of the assessee.*
- b) *Holding that no body attended on 28.08.2015 whereas we attended with full and complete submissions but were informed that your appeal is in the transfer*

list and therefore you go and you will now get fresh fixation notice from another CIT(A) to whom the appeal would be transferred by the CCIT New Delhi.

- c) *Holding that further notices fixing the appeal for 06.10.2015, 12.11.2015 and 10.02.2016 sent through speed post and not returned back and therefore are treated to have been served whereas there is no any valid service of such notices.*
- d) *Dismissing the appeal of the assessee without deciding the grounds of appeal individually.*
- e) *Dismissing the appeal on the ground that the assessee has not substantiated*as to how the interest was allowable when he himself is stating that no one attend and therefore how it could be said that the assessee has not substantiated its claim.*
- f) *Dismissing the appeal only on the basis of order of the AO without deciding the appeal on merits.*
- g) *Dismissing the appeal on the ground that the assessee was not interested in pursuing the appeal whereas non attendance if any in the absence of service of notice does not amount to that the assessee was not interested in pursuing the appeal.*
- h) *Any other ground with the permission the chair at the time of hearing.*

(B) At the time of hearing before us, Ld. Counsel for assessee submitted that the notices of hearing issued by Ld. CIT(A) were not received by the assessee, due to which the assessee could not present its case before Ld. CIT(A); and an ex-parte order was passed by Ld. CIT(A). He requested to set aside the issues in dispute to the file of the Ld. CIT(A) for fresh order, so that the assessee has opportunity to present its case before Ld. CIT(A). Learned Departmental Representative ("Ld. DR", for short) for Revenue was agreeable to this, and expressed no objection to this. In view of the foregoing, and as both sides agree; we set aside impugned appellate order dated 15.02.2016 of Ld. CIT(A) and restore all issues in dispute to the file of the Ld. CIT(A)

for fresh order as per law after providing reasonable opportunity to the assessee. The assessee is directed to be present before Ld. CIT(A) through Authorized Representative from 10 AM onwards on 16.04.2020 to join appellate proceedings before Ld. CIT(A) in pursuance of this order.

(C) In the result, appeal filed by Assessee is partly allowed.

Order is pronounced in Open Court on 19/02/2020.

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER

Sd/-

(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 19/02/2020
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	