

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No. 2525/DEL/2019 (A.Y 2012-13)

(THROUGH VIDEO CONFERENCING)

Shyam Sunder Talwar 41/3, Ashok Nagar, Delhi AACPT7577R (APPELLANT)	Vs	ITO Ward 62(3) 22 nd Floor, E-2, Block, Civic Centre, J. L. Nehru Marg, New Delhi (RESPONDENT)
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Appellant by	Sh. Arun Gupta, AR
Respondent by	Sh. Vipul Kashyap, Sr. DR

Date of Hearing	17.11.2020
Date of Pronouncement	25.11.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 13/2/2019 passed by CIT(A)-20, New Delhi for Assessment Year 2012-13.

2. The grounds of appeal are as under:-

1. *That the order passed by the Ld. CIT(A) is bad in law and nature and liable to be quashed.*

(a) *The assessee was deprived of the legitimate right of making submission during the appellate proceedings against the additions made in the assessment order.*

b) *The Ld.CIT(A) was not considerate to grant the adjournment in spite of the fact that an application was pending before the Ld. AO for inspection of records and the fact was duly intimated to Ld. CIT(A).*

- c) *The Ld. CIT(A) while passing the appellate order did not follow the principle of natural justice.*
2. *That the Assessment order has been passed without issuing the mandatory notice u/s 143(2) of the Act and therefore the Ld. AO has wrongly assumed jurisdiction over the assessee and the assessment order is liable to be quashed.*
3. *That the reasons have been recorded and notice u/s 148 of the Act has been issued without taking the mandatory approval from the respective higher authorities envisaged u/s 151 of the Act and therefore the Ld. AO has wrongly assumed jurisdiction over the assessee and the assessment order passed is liable to be quashed.*
4. *That the Ld. CIT(A) has erred in confirming the addition of Rs. 1,21,00,000/- on account of unexplained investment u/s 69A of the Act, the assessee submitted that he owned only 50% of the property and source of the investment was duly submitted, so it is liable to be deleted.*
5. *That the Ld. CIT(A) has erred in confirming the addition of Rs.3,67,588/- on account of long term capital gain on sale of property, where the assessee has duly explained that the property belonged to assessee's wife and assessee has acted only on her behalf as Power Of Attorney holder and hence it is liable to be deleted.*
6. *That the Ld. CIT(A) has erred in confirming the addition of Rs. 1,50,000/- on account of expenditure on foreign trips as the expenses were borne by the company in which assessee was a director and not by assessee and the documents were already submitted, so it is liable to be deleted."*

3. During the year under consideration the assessee was engaged in the business/profession of travel on contract basis, in the name and style of M/s Diamond Travels as a proprietor. The return of income was filed on 30.09.2012 declaring income of Rs. 8,98,570/-. The Assessing Officer passed the assessment order dated 30.12.2016 thereby assessing the income at Rs. 1,56,66,750/- and making additions/disallowances in respect of disallowance

out of stores and spare parts, disallowance of salary and wages, disallowance of out of other expenses, addition on account of unexplained investment and unexplained expenditure as well as addition on account of long term capital gain.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the CIT(A) has not given the appropriate opportunity of hearing to the assessee to represent his case.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused the material available on record. It is pertinent to note that the CIT(A) has not given any categorically finding on merit of the case and also did not give sufficient opportunity of hearing to the assessee. Therefore, the CIT(A) was not right in dismissing the appeal of the assessee without giving proper opportunity of hearing. Hence, we are remanding back the entire issue to the file of the CIT(A) to be decided on merit. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. The appeal of the assessee is partly allowed for statistical purpose.

8. In result, the appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on this 25th Day of NOVEMBER, 2020.

Sd/-

**(R. K. PANDA)
ACCOUNTANT MEMBER**

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 25/11/2020
R. Naheed

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI