

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. KULDIP SINGH, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.2580/Del/2017
(for Assessment Year : 2013-14)

Kiran Vats C/o. M/s. ADC Legal Servies Pvt. Ltd., 59, Nehru Apartments, Outer Ring Road, Kalkaji New Delhi-110019 PAN : ACZPV 1284 G	Vs.	DCIT Circle – 3, Noida.
(APPELLANT)		(RESPONDENT)

Assessee by	--None--
Revenue by	Dr. Shiv Swaroop Singh, Sr. D.R.

Date of hearing:	06.04.2021
Date of Pronouncement:	06.04.2021

ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-I, New Delhi dated 24.02.2017 for Assessment Years 2013-14.

2. Assessee is an individual who electronically filed his return of income on 29.03.2014 declaring total taxable income of Rs.11,57,000/-. The case was selected for scrutiny and notices u/s 143(2) and 142(1) were issued and served to the assessee. AO has noted that in response to the notices issued none appeared on behalf of the assessee. He therefore, passed order u/s 144 of the Act on 04.03.2016 determining the total income at Rs.2,61,57,000/-.

3. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who vide order dated 24.02.2017 in Appeal No.105/2016-17/Noida dismissed the appeal of the assessee on account of non prosecution of appeal. Aggrieved by the order of CIT(A), assessee is now in appeal before us and has raised the following grounds of appeal:

“The dismissal of Appeal No. 105/2016-17/Noida vide Impugned Order by the CIT-Appeal-1. Noida is illegal and not tenable on the following inter alia grounds:

1. **Because** the office of the Ld. CIT sent the notice dated 21-11-2016 to wrong address at D-171, Sector-49, Noida in complete disregard of the address mentioned in Form 35 by the assessee.
2. **Because** the notice for appearance on 03-01-2017 was duly complied with by the counsel of the assessee and the Ld. CIT-Appeal was not in his office and no register for marking the presence was kept.
3. **Because** the order sheet signed by Ld. CIT-Appeal only mentions about a notice dated 21-11-2016 sent on wrong address where nobody lives. The notice was not served to the assessee in accordance with law.

4. **Because** there has been complete failure of principles of natural justice and no reasonable opportunity was given to the assessee to represent her appeal in utter disregard of the principles of natural justice.

5. **Because** the Income-tax department has been completely biased on account of the fact that the department exercised undue influence and made Mr. Raveesh Vats surrender **Rs. 30 crore** in the name of various individuals including the assessee without corroboration of the surrendered amount with any records found during survey. The statement was duly retracted by Mr. Raveesh Vats before the CIT, Noida. High-pitched assessments have also been made in the hands of group companies without any basis.

6. Because due to the lean phase in real estate industry leading to complete disruption of the business of the companies and due to lack of liquidity, Ekdant group has been facing mounting pressure from all quarters.

7. **Because** the surrender of Rs. 2.5 crore vide statement dated **19-09-2013** was illegal and the same was extracted from Mr. Raveesh Vats and the same was duly retracted by him.

8. **Because** the Income tax Department including the Commissioner of Income tax, Noida, Additional Commissioner were all fully aware of the facts of wrong surrender. However, rather than acting fairly and with justice, the IT. Department has mechanically added the amount to the income of the assessee without there being any corroborating material. The department purposefully passed the illegal assessment order under section 144 of the Act to deny the assessee full rights. Thereafter, the Ld. CIT(A) also without following the principle of natural justice, dismissed the appeals and did not pass a speaking order although the facts were duly stated in the Appeal.

9. **Because** the Ld. CIT (A) failed to take into consideration the brief facts stated in the memo of appeal. No speaking order whatsoever has been passed taking into consideration the facts and law stated vide the assessment order as well as the memo of appeal.

Any other ground, with the permission of the Hon'ble Income tax Appellate Tribunal."

4. Case file reveals that there is no appearance on behalf of the assessee and even on the date of hearing none appeared on behalf of the assessee though the notice of hearing was issued to the assessee. We therefore proceed to dispose of the appeal *ex parte* qua the assessee after considering the material on record and hearing the DR.

5. Before us, Learned DR supported the order of lower authorities.

6. We have heard Learned DR and perused the material on record. The perusal of CIT(A) order reveals that CIT(A) has passed an *ex parte* order without deciding the issue on merits. Sub Section (6) of Section 250 of I. T. Act mandate the CIT(A) to state the points in dispute and thereafter assign the reasons in support of his conclusion. We are of the view that by dismissing the appeal without considering the issue on merits, Learned CIT(A) has failed to follow the mandate required in Sub Section (6) of Section 250 of the Act. Further it is also a well settled principle of natural justice that sufficient opportunity of hearing should be offered to the parties and no parties should be condemned unheard. In view of these facts, we set aside the impugned order of CIT(A) dated 24.02.2017 and restore the issue to the file of CIT(A) for re-adjudication of the issues after granting sufficient opportunity of hearing to the assessee. Assessee is also directed

to furnish the details called for by the lower authorities. In view of our decision to restore the issue to CIT(A), we are not adjudicating on merits the grounds raised by the assessee. **Thus the ground of assessee is allowed for statistical purposes.**

7. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 06.04.2021

Sd/-

**(KULDIP SINGH)
JUDICIAL MEMBER**

Date:- 06.04.2021

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Copy forwarded to:

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

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR
ITAT NEW DELHI