

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. KUL BHARAT, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No. 3761/Del/2015
(Assessment Year : 2010-11)

Vijay Chhabra C/o. P. N. Chawla, Adv B-V, Vandhana, 11 Tolstoy Marg, New Delhi PAN No. AADPC 8630 P (APPELLANT)	Vs.	DCIT Circle – 31(1) New Delhi (RESPONDENT)
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Assessee by	--None--
Revenue by	Shri Kumar Pranav, Sr. D.R.

Date of hearing:	07.09.2021
Date of Pronouncement:	07.09.2021

ORDER

PER ANIL CHATURVEDI, AM:

This appeal filed by the assessee is directed against the order dated 02.03.2015 passed by the Commissioner of Income Tax (Appeals)-18, New Delhi relating to Assessment Year 2010-11.

2. The relevant facts as culled from the material on records are as under :

3. Assessee is a company which is stated to be engaged in two proprietorship concerns business namely M/s. V. Chhabra and Associates wherein he carrying on business of manufacturing & trading of furniture and M/s. Asian Advertising in which he runs an advertising agency. Assessee filed its return income for A.Y. 2010-11 on 09.10.2010 declaring total income of Rs.74,19,962/-. The case was selected for scrutiny and accordingly notices u/s 143(2) and u/s 142(1) of the Act were issued from time to time. In compliance to notices, AO has noted in the assessment order that Learned Counsel for the assessee has attended from time to time and furnished required details. AO thereafter passed assessment order u/s 143(3) of the Act vide order dated 18.03.2013 and the total taxable income was determined at Rs.77,30,570/-. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who vide order dated 02.03.2015 in Appeal No.49/14-15 dismissed the appeal of the assessee. Aggrieved by the order of CIT(A), assessee is now in appeal before us and has raised the following grounds:

1. *“That the order is bad in law and in facts.*
2. *That in the facts and circumstances of the case the learned CIT (Appeals) has grossly erred in adding back a sum of Rs. 1,93,562/- u/s 14A of the Income Tax Act. She has only cited provisions of section 14A of the Act which are not isputed at all. The appellat case was and is that no expenditure, whatsoever, was incurred on earning tax free income which is deemed to have been claimed against the business income / loss. The Learned assessing authority did not discharge his legal obligation to state clearly the facts on the basis of which the addition was being made and the learned CIT (Appeals) has also erred in confirming the addition.*

3. *That the learned CIT (Appeals) has made no observation, whatsoever, in respect of ground No. 4 and 5 of the appeal in which the disallowance of Rs. 23,617/- incurred as expenditure charged by M/s Kotak Securities Limited, was made. Although she herself has observed in the assessment order, that written submissions were filed before her on the same ground against making such addition thus she has erred in law & in facts in dismissing the appeal in total.”*

4. The case file reveals that in the past there was no appearance on behalf of the assessee. Even on the date of hearing there was no appearance on behalf of the assessee nor any application for adjournment has been filed by it though the notice of hearing was issued to the assessee. In such a situation and considering that the appeal being an old appeal (filed in 2015), we proceed to decide the matter *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 order without deciding the issue on merits. Further no finding has been given by CIT(A) on the submissions made by the assessee before him. Sub Section (6) of Section 250 of I. T. Act mandates 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. In view of these facts, we set aside the impugned order of CIT(A) dated 02.03.2015 and restore the issue to the file of CIT(A) for re-adjudication of the issues in accordance with law after granting sufficient opportunity of hearing to both the parties. 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 07.09.2021

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 07.09.2021

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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI