

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

**SMT. DIVA SINGH, JUDICIAL MEMBER**

**I.T.A No. 6536/Del/2019**  
**(ASSESSMENT YEAR: 2011-12)**

Mrs. Prabha Jain 2431/4, 2 <sup>nd</sup> Floor, Chhipi Wara Near Jama Majid, Chawri Bazar, Delhi. PAN No. AFXPJ4219E	Vs.	INCOME TAX OFFICER Ward 47(2) New Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant By	None
Respondent by	Shri Sanjiv Mahajan, Sr. DR

Date of Hearing	<b>18.10.2021</b>
Date of Pronouncement	<b>21.10.2021</b>

**Hearing conducted via Webex**

**ORDER**

The present appeal has been filed by the assessee, wherein the assessee assails the correctness of the order dated 28.05.2019 of CIT(Appeals)-16, New Delhi pertaining to 2011-12 assessment year on various grounds.

2. At the time of hearing, no one was present on behalf of the assessee. The appeal was passed over. In the second round also the position remained the same as the assessee remained unrepresented. A perusal of the record further shows that on each of the days the appeal of the assessee was fixed the assessee was not present before the ITAT. However, on a perusal of the record, it was seen that the appeal could be decided on the basis of material available on record in the context of the procedural deficiencies addressed in ground nos. 1 and 2 raised by the assessee in the present proceedings. These read as under: -

1. *“For that the Assessing Officer has passed the order of assessment dated 18<sup>th</sup> Dec. 2018 & CIT(Appeal)-16 has also partly confirmed the said order by his order No. 10307/18-19 dated 28.05.2019 in violation of principle of*

*natural justice and fair play which has caused great harms and prejudice to the appellant.*

2. *For that, the CIT Appeal has partly confirmed the addition of Rs. 397320/- on account of non-submission of confirmation of old debtors whereas the assessee has submitted confirmation to the CIT(A). the appellant has not been given proper or adequate opportunity by the CIT(A) to make her representation against the above said confirmations which were rejected by the CIT(A). The assessee's representative has filed confirmation on 28.05.2019, and on the same day, CIT(A) has passed its order without asking any further question on said confirmations and without giving adequate opportunity to submitted the copy of ITR for the above said confirmations. Therefore, the said addition is excessive, illegal, arbitrary, unjust, and liable to be quashed."*

3. Ld. Sr. DR Mr. Sanjiv Mahajan was heard who relied on the order.

4. I have heard his submissions and seen the record. It is seen on a reading of the impugned order that the additions made by the Assessing Officer assailed by the assessee by way of filing the appeal before the CIT(Appeals) were partly sustained without giving effective opportunity of being heard to the assessee. The record shows that the appeal as per the impugned order was instituted on 19.01.2019 and was fixed for hearing on 11.04.2019 for the first time. Thereafter, few adjournments were given and the appeal came up for hearing on 28.05.2019 on which date written submissions on behalf of the assessee were filed. On the said date the assessee was represented by her Chartered Accountant. It is seen that the order was passed on the very same day considering the written submissions advanced whereby part relief was no doubt granted but part addition stood confirmed. It is seen that the Ld. CIT(A) accepted fresh evidences filed and found it to be sufficient for deleting additions qua 12 trade debtors but insufficient qua remaining 8 trade debtors. The grievance posed in the grounds is that deficiencies in evidence as noticed by the Ld. Commissioner was never communicated and opportunity to make good the deficiencies etc.

consequently has not been provided. It is a matter of fact not disputed by the Ld. Sr. DR that the concerned lady during the course of the assessment proceedings remained busy in attending to her husband's chronic illness (cancer etc.). It is seen that part of the additions were deleted considering the confirmations and corroborative evidence in the form of confirmations and the ITRs qua 12 trade debtors as fresh evidences. However, for the remaining 8 alleged trade debtors additions made by the AO were confirmed for want of proper documentary evidence. The confirmations filed on plain paper, copies extracted at page 13 of the impugned order were considered to be not sufficient evidence.

5. Aggrieved by this, the assessee is in appeal before the ITAT. The Ld. Sr. DR submits that evidences as made available have been considered. However, the specific grievance posed namely that the deficiencies noticed for confirming part of the addition were never confronted to the assessee and lack of proper opportunity pleaded in the grounds was not disputed. Accordingly, after hearing the Ld. Sr. DR and perusing the record it is deemed appropriate to set aside the impugned order to the extent of the additions confirmed back to the file of the Ld. CIT(A) with the direction to pass a speaking order in accordance with law after hearing the assessee. The assessee in its own interest is directed to make available all necessary supporting evidences and participate in the proceedings fully and fairly. It is made clear that the opportunity so provided to the assessee in good faith should not be abused.

6. Said order was pronounced in the open court at the time of hearing itself.

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

Order pronounced in the open court on 21/10/2021

Sd/-  
**(DIVA SINGH)**  
**JUDICIAL MEMBER**

\*Kavita Arora, SPS

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT concerned Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar, ITAT Delhi Benches:  
Delhi.