

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

(THROUGH VIDEO CONFERENCING)

BEFORE SHRI C. N. PRASAD, JUDICIAL MEMBER

ITA No.5732/Del/2019

[Assessment Year : 2015-16]

Cloos India Welding Technology Pvt. Ltd. 1 st Floor 81, Hemkunt Colony New Delhi AAECC5526E	vs	ITO Ward-6 (2) New Delhi
APPELLANT		RESPONDENT
Appellant by	Shri Ravi Bhatia, CA	
Respondent by	Shri Om Prakash, Sr. DR	
Date of Hearing	13.12.2021	
Date of Pronouncement	13.12.2021	

ORDER

PER C. N. PRASAD, JM :

This appeal is filed by the assessee against the order of the Ld.CIT (A)-2, New Delhi dated 30/4/2019 for Assessment Year 2015-16. The assessee has raised following grounds of appeal:-

1. *That on the facts and circumstances of the case, the order passed by the Ld. Commissioner of Income Tax (Appeals) - 2, New Delhi ("learned Commissioner of Income Tax (Appeals)") is bad in law.*
2. *That the learned Commissioner of Income Tax (Appeals) has grossly erred in law and on facts of the case in assessing the returned loss of the Appellant at INR 1,038,884 as against the returned loss of INR 2,882,601 without any proper basis and appreciation of the facts of the case.*

3. *That the learned Commissioner of Income Tax (Appeals) has grossly erred in law and on facts in passing the order in utter disregard of the statutory provisions contained under section 250(6) of the Act by dismissing the appeal of the appellant ex parte, violating the principles of natural justice*
4. *That the learned Commissioner of Income Tax (Appeals) has overlooked the provisions of Section 250(6) of the Act, as the order passed by him is non speaking and without affording any proper opportunity of being heard to the appellant.*
5. *That the learned Commissioner of Income Tax (Appeals) has ignored various judicial rulings, wherein it was held that section 250(6) makes it obligatory for the CIT(A) to pass a speaking order deciding the points raised in appeal, stating his reasons for the decision, as such.*
6. *That the learned Commissioner of Income Tax (Appeals) ought not to have decided the appeal of the appellant ex parte, as due appearance was caused by the counsel of assessee-appellant, however, no order sheet entries were made signed by the Appellant and as such, due compliance was made by the Appellant.*
7. *That the learned Commissioner of Income Tax (Appeals) has also failed to appreciate the fact that addition so made by learned assessing officer is based on preconceived notions and by arbitrarily brushing aside the detailed submissions/evidences/material placed on record, which were furnished in order to support the fact that no addition was called for in the instant case.*

3. The assessee raised several grounds on merits apart from Ground No. 4, challenging the order of the Ld.CIT(A) in disposing of the appeal ex-parte without affording opportunity of being heard to the assessee. Ld. Counsel for the assessee submitted at the outset that appeal was disposed off ex-parte by the Ld.CIT(A). Ld. Counsel for the assessee submits that the assessee has been given only one opportunity of hearing on 26/4/2019 on which date, the assessee sought time and the Ld. Counsel give time till 30/4/2019. Ld. Counsel submits that thereafter, the appeal was disposed by the Ld.CIT(A) on 30/4/2019 back on the written submissions filed without granting opportunity of being heard. Therefore, Ld. Counsel submits that the appeal may be restored back to the file of the Ld.CIT(A) for providing an opportunity of being heard to the assessee.

4. Ld. DR has no objection in sending the matter back to the file of the Ld.CIT(A). Considering the rival submissions and taking the totality of the facts and circumstances into consideration, I am of the opinion that the appeal should go back to the file of the Ld.CIT(A) for fresh hearing after providing adequate opportunity of being heard to the assessee. This appeal is restored to the file of the Ld.CIT(A) and he shall disposed off the appeal denovo in accordance with law after providing adequate opportunity of being heard to the assessee.

5. In result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court in both the parties on this 13th day of December, 2021.

Sd/-

(C. N. PRASAD)
JUDICIAL MEMBER

Dated : 13/12/2021

R. N

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI