

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI
(Through Video Conferencing)**

**BEFORE,
SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.23/Del/2019
(ASSESSMENT YEAR 2015-16)**

Surender 145, Saariyan, Ghota Mohalla Ujwa Village Ujwa Najafgarh Delhi-110 073 PAN-FYPPS 2426Q (Appellant)	Vs.	Income Tax Officer, Ward-43(2), New Delhi. (Respondent)
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Appellant By	Sh. Deepesh Garg, Adv.
Respondent by	Sh. Umesh Takyar, Sr. DR

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-15, Delhi [Ld. CIT(A)", for short], dated 30.08.2018 for Assessment Year 2015-16.

Grounds taken in this appeal of Assessee are as under:

- "1. That the assessment order passed by Ld. AO is bad in law and not based on facts.*
- 2. That A.O has not correctly applied the provision of Section 49(1).*
- 3. That the Appeal order passed by Ld. CIT(A) is bad in law and is not based on facts.*

4. *That the Ld. CIT(A) has not given proper opportunity to the appellant to present his case.*
5. *That the Ld. CIT(A) has not taken into consideration e-submission filed vide document reference id 100000002590753 on dated 07.08.2018 before passing the Assessment order.*
6. *That the appellant craves leave to modify/amend or add any one or more grounds.”*

(B) At the time of hearing before us, there was no representation on behalf of the assessee. In the absence of any representation from the assessee side, we heard the Ld. Senior Departmental Representation for Revenue [“Ld. Sr. DR”, for short]. He drew our attention to grounds of appeal, wherein it has been contended by the assessee that the Ld. CIT(A) had not taken into consideration the electronically filled submissions filed on 07.08.2018 vide document reference ID 100000002590753. The Ld. Sr. DR submitted that the issues in dispute may be set aside to the file of the Ld. CIT(A) with the direction to pass fresh order in accordance with law after giving due consideration to the aforesaid electronically filed submission (file on 07.08.2018) vide aforesaid document reference ID 100000002590753.

(C) We have heard the Ld. Sr. DR and perused the materials on record. We find that the impugned appellate order of the Ld. CIT(A) is dated 30th August, 2018. It is further noticed from perusal of the impugned appellate order of the Ld. CIT(A) that there is no mention in electronically filed submission dated 07.08.2018. It can be readily inferred, as contended by the assessee in the grounds of appeal, that the Ld. CIT(A) passed the impugned appellate order dated 30th August, 2018 without giving any consideration to the aforesaid electronically filed submission of the assessee dated 07.08.2018, which was filed by the assessee well before date (30.08.2018) on which the impugned appellate order was passed by the Ld. Ld. CIT(A).

(C.1) In view of the foregoing, and as the Ld. Sr. DR for Revenue is in agreement, we set aside the impugned appellate order dated 30.08.2018 of the Ld. CIT(A); and we restore the issues in dispute in the present appeal before us to the file of the Ld. CIT(A) with direction to pass a fresh (*de novo*) order in accordance with law after giving due consideration to the aforesaid electronically filed submissions dated 07.08.2018 and after providing a reasonable

opportunity to the assessee. This appeal is disposed off in accordance with the aforesaid directions. For statistical purposes, the appeal is partly allowed.

(C.2) Before we part, we hereby clarify, by way of abundant caution, that the appellant (i.e. the assessee) will be at liberty to approach Income Tax Appellate Tribunal for setting aside this order; and for restoring this appeal, in accordance with proviso to Rule 24 of Income Tax (Appellate Tribunal) Rules, 1963.

(D) This order was already pronounced orally in the Court after conclusion of the hearing on 03.01.2022 in the presence of the Ld. Sr. DR for Revenue. Now, this written order is signed today on 03.01.2022.

Sd/-

(AMIT SHUKLA)
JUDICIAL MEMBER

Dated: 03.01.2022

PK/PS

Copy forwarded to:

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

Sd/-

(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI