

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'B' BENCH,  
NEW DELHI (THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA No. 1761/DEL/2018 [A.Y 2014-15]

Shri Sarabjit Singh  
228, Sector 13, Vasundhara  
Ghaziabad

Vs.

The Income tax Officer  
Ward 2(4), Ghaziabad

PAN: AQAPS 0605 H

(Applicant)

(Respondent)

Assessee By : None

Department By : Shri Dheeraj Jain, Sr. DR

**Date of Hearing : 24.01.2022**

**Date of Pronouncement : 24.01.2022**

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

This appeal by the assessee is preferred against the order of the  
ld. CIT(A) - 2, Noida dated 05.12.2017 pertaining to Assessment Year  
2014-15.

2. The grievances of the assessee read as under:

"1. That under the facts and circumstances of the case and in law, no proper opportunity of hearing has been allowed before both the lower authorities and the Assessment Order as well as CIT (A) appeal order passed are ex - parte, therefore, appellant has not been provided sufficient opportunity to present his case before both the lower authorities.

2. That under the facts and circumstances of the case and in law, as no reasonable opportunity has been allowed by both the lower authorities, therefore, both the lower authorities have passed the order against principles of natural justice.

3. That under the facts and circumstances of the case and in law, both the orders passed by the Id. AO as well as by the Ld. CIT (A) are without application of mind as both of them have computed Short Term Capital Gain without giving any benefit of cost of acquisition, therefore, the Assessment Order as well as CIT (A) appeal order is illegal and un - sustainable.

4. That under the facts and circumstances of the case and in law, both the lower authorities have erred in law as well as on merits in making addition of Rs. 53,60,000/- U/s. 45 of the Act by treating total sale proceeds of property as Short Term Capital Gain without giving any benefit of cost of acquisition, therefore, the whole addition made is illegal, unsustainable and without application of mind.

5. That under the facts and circumstances of the case and in law, both the lower authorities have erred in law as well as on merits in making addition of Rs. 25,00,000/- U/s. 45 of the Act by treating total sale proceeds of property as Short Term Capital Gain without giving any benefit of cost of acquisition, therefore, the whole addition made is illegal, unsustainable and without application of mind.

6. That under the facts and circumstances of the case and in law, both the lower authorities have erred in law as well as on merits in disallowing deduction of Rs. 1,43,151/- claimed under Chapter VI - A of the Act, the whole disallowance made is illegal, unsustainable and without application of mind.

3. None appeared on behalf of the assessee and we decided to proceed ex parte.

4. A perusal of the orders of the authorities below show that the assessment order is ex parte. Though one ld. counsel for the assessee appeared on behalf of the assessee but sought adjournment. Thereafter, the appellate proceedings were concluded ex parte. Therefore, in the interest of justice and fair play, we deem it fit to restore this appeal to the file of the ld. CIT(A). The ld. CIT(A) is

directed to allow reasonable and sufficient opportunity of hearing to the assessee to present the case with supporting evidences. The assessee is directed to avail this opportunity and file necessary documentary evidences before the ld. CIT(A).

5. In the result, appeal of the assessee in ITA No. 1761/DEL/2018 is allowed for statistical purposes.

The order is pronounced in the open court on 24.01.2022.

Sd/-

**[KUL BHARAT]  
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 24<sup>th</sup> January 2022.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	