

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G ": NEW DELHI

BEFORESHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
AND
SHRI N. K. CHOUDHRY, JUDICIAL MEMBER
(through Video Conferencing)

ITA No. 846/DI/2019
(Assessment Year: 2015-16)

Saroj Malik, C/o. Sandp Sapra, Advocat, C- 763, New Friends Colony, New Delhi PAN: AAKPM7355A (Appellant)	Vs.	ITO, Ward-46(3), New Delhi (Respondent)
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Assessee by :	None
Revenue by:	Shri Umang Takyar, Sr. DR
Date of Hearing	24/01/2022
Date of pronouncement	24/01/2022

ORDER

PER N.K. CHOUDHRY, J. M.:

1. This appeal has been preferred by the Assessee against the order dated 19.12.2018 impugned herein passed by the Id. Commissioner of Income Tax (Appeals)-16, New Delhi (hereinafter referred to as 'Id. Commissioner') under Section 250(6) of the Income Tax Act, 1961 (in short 'the Act') for assessment year 2015-16.

2. From the impugned order it reflects that though the Ld. CIT(A) afforded various opportunities of hearing to the Assessee however, the Assessee attended few and sought adjournment only and most of time remained absent therefore the Ld. CIT(A) dismissed the appeal of the Assessee.

3. We have given our thoughtful consideration to the order impugned herein. The Assessee did not bother itself to appear on each and every date of hearing and co-ordinate with appellate proceedings even after affording opportunity of being heard. Although the instant appeal of the Assessee is liable to be dismissed in order to give effect to the principle that law does not assist the person who is inactive and sleeps over his rights by allowing them when challenged or disputed to remain dormant, without asserting them in a court of law. The, principle which forms the basis of this rule is expressed in the maxim vigilantibus, non dormientibus, jura subveniunt (Law assists those who are vigilant and not those who sleep over their rights), but even a vigilant litigant is prone to commit mistakes. As the aphorism to err is human and is more a practical notion of human behavior than an abstract philosophy, the unintentional lapse on the part of a litigant should not normally cause the doors of the judicature permanently closed before him. The effort of the court should not be one of finding means to pull down the shutters of adjudicatory jurisdiction before a party who seeks justice, on account of any mistake committed by him, but to see whether it is possible to entertain his grievance if it is genuine, therefore, considering the peculiar facts **that the Ld. CIT(A) did not pass the order under challenge on merit but dismissed the appeal in ambiguous manner**, we consider it appropriate and proper to remand back the instant case to the file of the Ld.

CIT(A) for decision afresh on merits, suffice to say by affording proper and reasonable opportunity of being heard to the Assessee/Appellant, in order to follow the principle of natural justice.

We also consider it appropriate to direct the Assessee/Appellant to extend its full co-operation and participation in the appellate proceedings before the Ld. CIT(A) as and when would be required and in case of further default, the Assessee shall not be subjected to any leniency.

4. In the result, the appeal filed by the Assessee is allowed for statistical purposes.

Order pronounced in open Court on : **24/01 /2021.**

-Sd/-
(RAMA KANTA PANA)
ACCOUNTANT MEMBER

-Sd/-
(N.K. CHOUDHRY)
JUDICIAL MEMBER

Dated: 24/01/2022
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi