

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.1653/Del/2021
Assessment Year: 2014-15

Sh. Rajendra Shankar Singhal, W-24, Okhla Indl. Area, Phase-2, New Delhi	Vs.	ITO, Ward-28(1), New Delhi
PAN :AFBPS3911C		
(Appellant)		(Respondent)

Appellant by	Sh. Dinesh Mohan Sinha, AR
Respondent by	Sh. Umesh Takyar, Sr. DR

Date of hearing	23.02.2022
Date of pronouncement	23.02.2022

ORDER

PER SAKTIJIT DEY, JM:

This is an appeal by the assessee against order dated 18.03.2019 of learned Commissioner of Income Tax (Appeals)-33, New Delhi, for the assessment year 2014-15.

2. We have heard the parties and perused the materials on record. The basic grievance of the assessee is against ex-parte disposal of the assessee's appeal by learned Commissioner (Appeals).

3. As could be seen from the facts on record, the assessee is a resident individual. For the assessment year under dispute, the assessee filed his return of income declaring total income of Rs.4,13,756/- on presumptive basis. While verifying the profit and loss account of the assessee, the Assessing Officer noticed that the assessee has declared sales of Rs.13,43,23,176/- which is much more than the threshold limit for computing tax on presumptive basis. Further, he observed, considering the turnover, the assessee was required to get his accounts audited and furnish a report in terms of section 44AB of the Act. The assessee having failed to do so, the Assessing Officer initiated proceeding for imposition of penalty under section 271B. After issuing notice to the assessee, the Assessing Officer ultimately passed an order on 28.06.2017 imposing penalty of Rs.1.50 lakhs under section 271B of the Act for failure to comply with the provisions of section 44AB of the Act. The assessee challenged the penalty order in an appeal filed before learned Commissioner (Appeals). However, by the impugned order, learned Commissioner (appeals) disposed of assessee's appeal ex-parte confirming the penalty imposed under section 271B of the Act.

4. Before us, learned counsel for the assessee forcefully submitted that adequate opportunity of being heard was not extended to the assessee by learned Commissioner (Appeals).

5. Per contra, learned Departmental Representative submitted, the matter may be restored back to learned Commissioner (Appeals) for de-novo adjudication with a direction to the assessee to co-operate in disposal of the appeal.

6. Having considered rival submissions and perused the materials on record, we are of the view that the assessee deserves a fair opportunity of being heard to contest the penalty imposed by the Assessing officer. Admittedly, for whatever may be the reason, the assessee was unable to represent his case before learned Commissioner (Appeals), for which reason it was decided ex-parte. Considering, the above, we are inclined to restore the matter back to learned Commissioner (Appeals) for deciding the issues raised by the assessee afresh. The Grounds are allowed for statistical purposes.

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

Order pronounced in the open court on 23rd February, 2022

Sd/-
(B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 23rd February, 2022.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi