

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

BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI N. K. CHOUDHRY, JUDICIAL MEMBER

ITA No. 2016/Del/2019
(Assessment Year: 2015-16)

Raghukul Trading Pvt. Ltd, Ad-196, Sector-63, Noida PAN: AABCR2770G (Appellant)	Vs. DCIT, Circle-2, Ghaziabad (Respondent)
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CO No. 108/Del/2019
(In ITA No. 2016/Del/2019)

DCIT, Circle-2, Ghaziabad (Appellant)	Vs. Raghukul Trading Pvt. Ltd, Ad-196, Sector-63, Noida PAN: AABCR2770G (Respondent)
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Assessee by :	ShriSatyajeetGoyal, Ld. Adv
Revenue by:	ShriVipulKashyap, Sr. DR

Date of Hearing	04/04/2022
Date of pronouncement	04/04/2022

O R D E R

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

1. The present appeal has been preferred by the Assessee whereas, the Cross objection by the Revenue Department against the order dated 28.09.2018 passed by the Ld. Commissioner of Income Tax (A)-I, Noida (in short 'Ld. Commissioner') u/s 250(6) of the Income Tax Act, 1961 (in short 'the Act') whereby, the Ld. Commissioner upheld the assessment order passed u/s 143(3) of the Act.

2. Heard the parties and perused the material available on record. The only issue raised by the Assessee before us relates to affirmation of disallowance of expenditure u/s 14A of the Act, by the Ld. Commissioner. It appears from the impugned order that though the Assessee vide letter dated 19.09.2018 placed the necessary documents on record before the Ld. Commissioner however, failed to appear in the appellate proceeding and consequently the Ld. Commissioner decided the issue u/s 14A of the Act against the Assessee on the ground that the Assessee did not bring anything on record in order to establish its claim.

2.1 The claim of the revenue department by way of cross objection is that because Assessment Order has been passed by the AO situated at Ghaziabad, therefore the appeal should have been decided by Ld. CIT(A) Ghaziabad but not by the Ld. Commissioner, Noida who lacks jurisdiction.

2.2 Considering the above stated peculiar facts and circumstances of the case in context of rival claims of the parties, for the just decision of the case and in the interest of justice, parties agreed to and even otherwise we deem it appropriate to remand the case to the file of the Ld. Commissioner (Appeals) having jurisdiction of this case for decision afresh, suffice to say while affording reasonable opportunity of being heard to the Assessee, hence, ordered accordingly.

3. In the result, the appeal filed by the Assessee and Cross objection filed by the Revenue Department stands allowed for statistical purposes.

Order pronounced in the open court on /04/2022.

-Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

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

Dated: 04/04/2022

A K Keot

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

ASSISTANT REGISTRAR
ITAT, New Delhi