

IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH "S.M.C." NEW DELHI ]

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER, S.M.C.  
(Through Video Conferencing)

आ.अ.सं./I.T.A No. 6782/Del/2019.  
निर्धारणवर्ष/Assessment Year: 2011-12

Shri Mahesh Aggarwal (Indl.) B-9/28, Sector : 18, Rohini, New Delhi - 110 085.	<b>बनाम Vs.</b>	Income Tax Officer, Ward : 38 (2), New Delhi.
<b>PAN No. AFAPA9389M</b>		
<b>अपीलार्थी/Appellant</b>		<b>प्रत्यर्थी/Respondent</b>

निर्धारितकीओरसे /Assessee by :	N o n e ;
राजस्वकीओरसे /Revenue by :	Shri Om Parkash, Sr. D. R.;

सुनवाईकीतारीख/ Date of hearing:	08/03/2022
उद्घोषणाकीतारीख/Pronouncement on :	22/04/2022

**आदेश /O R D E R**

**PER C. N. PRASAD, J.M. :**

1. This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-13, New Delhi, [hereinafter referred to CIT (Appeals)] dated 14.06.2019 for assessment year 2011-12.

2. The assessee has raised the following grounds of appeal:-

“ 1. That the learned CIT (Appeals) fell into grave error by passing a non-speaking ex-parte order.

2. That the learned CIT (Appeals) fell into grave error by not adjudicating on the ground that reopening is bad in law there being no service of 148 on the assessee.

3. That the learned CIT (Appeals) fell into grave error by not adjudicating on the ground that no notice u/s. 142(1) or opportunity notice u/s. 144 was served upon the assessee.

**Grounds on Merits of Additions**

4. That the learned Commissioner of Income Tax (Appeals) fell into grave error by confirming the addition of Rs.9,03,334/-.

5. That the appellant craves leave to add, amend, alter and / or delete any of the above grounds of appeal at or before the time of hearing. “

3. In spite of issue of several notices, none appeared on behalf of the assessee and no adjournment was also moved and, therefore, this appeal is disposed of on merits on hearing the ld. DR.

4. The assessee in the grounds of appeal contends that CIT (Appeals) erred in passing a non-speaking ex-parte order and further contended that the ld. CIT (Appeals) erred in not adjudicating the ground taken by the assessee on reopening of assessment as bad in law as there is no service of notice under Section 148 of the Act. Assessee also raised grounds on merits.

5. On perusal of the order of the ld. CIT (Appeals) I find that the ld. CIT (Appeals) dismissed the appeal of the assessee in limine as the assessee did not appear in person or through authorized representative when the appeal was posted for hearing on 7.06.2019. I also find that the ld. CIT (Appeals) has given only 3

opportunities to the assessee, one on 27.05.2019 on which date an adjournment application along with power of attorney was sent by the assessee via e-mail and the ld. CIT (Appeals) adjourned the case to 29.05.2019. On 29.05.2019 assessee again sought an adjournment as there was bereavement in the family of the authorized representative. The case was adjourned to 7.06.2019 on which date an adjournment was again sought for by the authorized representative. However, the ld. CIT (Appeals) dismissed the appeal in limine observing that the assessee willfully avoided availing the opportunities given.

6. On perusal of the order of the ld. CIT (Appeals) I observe that the ld. CIT (Appeals) though gave three opportunities to the assessee, the date given was too short and there was bereavement in the family of the authorized representative. When this was brought to the notice of the ld. CIT (Appeals) on 29.05.2019 the case was adjourned to 7.06.2019 allowing the assessee only a period of 6 days to represent his case. In my view the ld. CIT (Appeals) should have given sufficient time. Therefore, taking the totality of facts and circumstances into consideration, I am of the view that this appeal should go back to the file of the ld. CIT (Appeals) for de novo adjudication on merits, after providing adequate opportunity of being heard to the assessee. Thus, appeal is restored to the file of the ld. CIT (Appeals) for de novo adjudication on merits.

7. Ground No. 1 raised by the assessee is allowed for statistical purposes.

8. All other legal and also the grounds on merits are restored to the file of the ld. CIT (Appeals) for de novo adjudication.

9. In the result, the appeal of the assessee is allowed, for statistical purposes.

Order pronounced in the open court on : 22/04/2022.

Sd/-  
( C. N. PRASAD )  
JUDICIAL MEMBER

Dated : 22/04/2022.

\*MEHTA\*

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

ASSISTANT REGISTRAR  
ITAT, New Delhi.

Date of dictation	07.04.2022
Date on which the typed draft is placed before the dictating member	11.04.2022
Date on which the typed draft is placed before the other member	22.04.2022
Date on which the approved draft comes to the Sr. PS/ PS	22.04.2022
Date on which the fair order is placed before the dictating member for pronouncement	22.04.2022
Date on which the fair order comes back to the Sr. PS/ PS	22.04.2022
Date on which the final order is uploaded on the website of ITAT	22.04.2022
Date on which the file goes to the Bench Clerk	22.04.2022
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	