

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" NEW DELHI**

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No.4894/Del/2019

निर्धारणवर्ष/Assessment Year: 2010-11

Pooja Flat No. 408, Tower-4, Paras Seasons, Society Noida, Sector-168, Noida, Uttar Pradesh.	बनाम Vs.	ACIT Ward 62(2) New Delhi.
PAN No. ATSP4276G		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितीकीओरसे /Assessee by	None
राजस्वकीओरसे /Revenue by	Shri Om Prakash, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	09.03.2022
उद्घोषणाकीतारीख/Pronouncement on	27.04.2022

आदेश /O R D E R

This appeal is filed by the Assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-38, New Delhi dated 18.03.2019 for the AY 2010-11. When the matter posted for hearing on 09.03.2022 none appeared on behalf of the assessee. The Notice sent through speed post with acknowledgement due is returned un-served. It is also noticed from the record that when the notice issued through speed post with acknowledgement due posting the appeal for hearing on 06.07.2021 the notice was returned un-served with the endorsement by postal authorities as unclaimed. Therefore, this appeal is disposed off on hearing the Ld. DR.

2. The assessee in her grounds of appeal contended that the appeal was disposed off by the Ld. CIT(A) without giving fair opportunity to the assessee. It is the contention of the assessee that in the course of hearing before the Ld. CIT(A) the Ld. CIT(A) communicated to the assessee that the case will be transferred to the Assessing Officer for review and the AO will issue notice and she will receive notice from the Assessing Officer. However, the appeal was disposed off dismissing the appeal without giving sufficient opportunity to the assessee.

3. The Ld. DR strongly supported the orders of the authorities below.

4. On perusal of the order of the Ld. CIT(A), I find that the Ld. CIT(A) disposed off the appeal of the assessee without admitting the additional evidence furnished by the assessee under Rule 46A, stating that the AO provided several opportunities and the assessee failed to produce the evidences before the AO and, therefore, the additional evidences cannot to be admitted under Rule 46A of the Act the assessee contended in her grounds of appeal that only in the month of October, 2017 she came to know that the AO has issued notice to be present before him. Assessee contended that in 2012 she shifted her house/residence and, therefore, could not receive notices said to have been issued earlier. The assessee contended that since her father-in-law was severely ill and fighting with his life due to heart disease she requested the Assessing Officer to provide some more time for furnishing the relevant documents.

However, as they were busy in collecting the relevant documents the assessment order was passed u/s 144 read with section 142(1) of the Act.

5. On a perusal of the Ld. CIT(Appeals) order it is not known as to how many opportunities were given to the assessee to explain her case. Therefore, taking the totality of facts and circumstances into consideration I deem it fit to restore this appeal to the file of the Ld. CIT(A) for *denovo* adjudication after providing reasonable opportunity of being heard to the assessee. Thus, this appeal is restored to the file of the Ld. CIT(A) who shall decide in accordance with law.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 27/04/2022

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

Dated: 27.04.2022

*Kavita Arora, Sr. P.S.

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi