

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

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER, S.M.C.

आ.अ.सं./I.T.A. No. 357 TO 359/Del/2020.
निर्धारणवर्ष/Assessment Year: 2010-11

Manan Hi Fashions Pvt. Ltd., 1/3011, Ram Nagar Extension, Shahadra, Delhi - 110 032.	बनाम Vs.	Income Tax Officer, Ward : 2 (2) Noida.
PAN No. AACCM5229L		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

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

सुनवाईकीतारीख/ Date of hearing :	14/03/2022
उद्घोषणाकीतारीख/Pronouncement on :	28/04/2022

आदेश / O R D E R

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

1. These three appeals are filed by the assessee against different orders of the Id. Commissioner of Income Tax (Appeals)-32, New Delhi [hereinafter referred to CIT (Appeals)] for the assessment year 2010-11 arising out of the assessment order passed under Section 143(3) read with Section 147 of the Act and penalty orders passed under Section 271(1)(c) and 271(1)(b) of the Income Tax Act, 1961 (the Act).

2. Notices issued by the Registry through Speed Post with acknowledgement due posting the case for hearing on 14.03.2022 have been returned un-served by the Postal Authorities with an endorsement "Addressee Left Without Instructions". Therefore, these appeals are disposed of on hearing the Id. DR.

3. On perusal of the grounds of appeal it is noticed that in all these three appeals the assessee challenged the order of the Id. CIT (Appeals) in disposing of the appeal ex-parte without providing adequate opportunity of being heard. Assessee also raised several grounds on additions / disallowances made on merits. On perusal of the order of the Id. CIT (Appeals) it is noticed that several opportunities were given to the assessee. On one of the occasions the Id. AR sought time. The Id. CIT (Appeals) referred to the decision of Delhi Bench in the case of CIT Vs. Multiplan India Pvt. Ltd. 38 ITD 320 (Del.) and since the assessee was not co-operating with the proceedings before him he dismissed the appeals ex-parte. It is noticed from the grounds of appeal raised by the assessee that assessee has challenged the re-opening of assessment stating that notice issued under Section 148 of the Act is bad in law and consequently the re-assessment made under Section 144 read with Section 147 of the Act is void ab initio thus liable to be quashed. Assessee also challenged that the re-assessment order is bad in law stating that notice under Section 143(2) of the Act was never issued to the assessee. It is observed that these grounds were also raised before the Id. CIT (Appeals), but these grounds were not adjudicated. Since these grounds go to the very jurisdiction of the Assessing Officer in making the assessment and the very validity of assessment order, the Id. CIT (Appeals) should have called for a remand report from the Assessing Officer on these

grounds before disposing of the appeals ex-parte. Therefore, taking the totality of facts into consideration, I am of the view that these appeals should go back to the Id. CIT (Appeals) for de novo adjudication after calling for remand report from the Assessing Officer, if necessary. Thus, these appeals are restored to the file of the Id. CIT (Appeals) for de novo adjudication in accordance with law, after providing sufficient opportunity of hearing to the assessee.

4. In the result, all the appeals of the assessee are partly allowed, for statistical purpose.

Order pronounced in the open court on : 28/04/2022.

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

Dated : 28/04/2022.

MEHTA

Copy forwarded to :

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

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	25.04.2022
Date on which the typed draft is placed before the dictating member	26.04.2022

Date on which the typed draft is placed before the other member	28.04.2022
Date on which the approved draft comes to the Sr. PS/ PS	28.04.2022
Date on which the fair order is placed before the dictating member for pronouncement	28.04.2022
Date on which the fair order comes back to the Sr. PS/ PS	28.04.2022
Date on which the final order is uploaded on the website of ITA	28.04.2022
Date on which the file goes to the Bench Clerk	28.04.2022
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	