

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. 2661/Del/2019
(Assessment Year: 2015-16)

RituBansal, 702, 7 th Floor, MahagunMarvella, Sector-78, Noida PAN: AMJPB2194B (Appellant)	Vs. ITO, Ward-3(2), Noida (Respondent)
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Assessee by :	Shri S. S. Nagar, CA
Revenue by:	Shri T. Kipgen, Ld. CIT DR

Date of Hearing	18/04/2022
Date of pronouncement	29/04/2022

O R D E R

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

1. This appeal has been preferred by the Assessee against the order dated 29.10.2018 impugned herein passed by the Id. Commissioner of Income Tax (Appeals)-I, Noida {hereinafter called in short as the "Id. Commissioner"} u/s 250 of the Income Tax Act, 1961 (in short "the Act") for the assessment year 2015-16.

2. Heard the parties and perused the material available on record. The Ld. Commissioner dismissed the appeal of the Assessee without being admitted due to non-availability of challan form for the fees paid in terms of provisions of section 249(1)(a) of the Act and non-appearance of the Assessee. The Assessee before us claimed that it never received any such notice of hearing as mentioned in the impugned order and therefore the Assessee could not get proper opportunity of being heard. The assessee further submitted that it has paid fees of Rs. 10000/- and also affixed the chhallan form of the same with the appeal filed before the Ld. Commissioner.

We, at this stage, are not going into the controversy with regard to issuance and receipt of notices to the Assessee and non-appearance of the Assessee for its willful avoidance, but only considering the peculiar facts that Ld. Commissioner dismissed the appeal of the Assessee in limine mainly on non-finding of Chhallan form of fees paid, thus we deem it appropriate to remand this case to the file of the Ld. Commissioner for decision afresh, hence ordered accordingly.

We clarify that the Assessee has to establish the payment of necessary fee as already been paid in terms of the provisions of section 249(1)(a) of the Act and shall co-operate with the appellate proceedings before the Ld. Commissioner and will appear as and when would be required and in case of default, the Ld. Commissioner would be at liberty to decide the appeal of the Assessee as ex-parte in accordance of law.

3. In the result the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 29/04/2022.

-Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

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

Dated: 29/04/2022
A K Keot

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

ASSISTANT REGISTRAR
ITAT, New Delhi