

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "F" : DELHI

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHARY, JUDICIAL MEMBER

ITA.No.6436/Del./2019
Assessment Year 2016-2017

M/s. Parsvnath Power Projects P. Ltd., Jaipur. PIN 302 006 PAN AAEC6305Q C/o. Jain & Co. 228, City Centre, S.C. Road, Jaipur.	vs.	The ACIT, Circle – 19 (2) Delhi.
(Appellant)		(Respondent)

For Assessee :	Sh Anunav Kumar, Advocate
For Revenue :	Sh Toufel Tahir, Sr. DR

Date of Hearing :	14.06.2022
Date of Pronouncement :	16.06.2022

ORDER

PER ANIL CHATURVEDI, A.M.

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-7, New Delhi, dated 21.05.2019 relating to the A.Y. 2016-2017.

2. The relevant facts as culled from the material on records are as under :

3. The assessee is a company dealing in consultancy services regarding power trading through Indian Energy Exchange during the year under consideration. It filed its return of income for the A.Y. 2016-17 on 29.09.2016 declaring total income of Rs.1,64,46,450/-. The case of the assessee was selected for limited scrutiny and thereafter in the assessment order passed under section 143(3) order dated 08.12.2018 the total income of the assessee was determined at Rs.1,86,69,035/- as against the returned income of Rs.1,64,46,450/-.

3.1. Aggrieved by the Order of the A.O. assessee carried the matter in appeal before the Ld. CIT(A) who vide order dated 08.12.2018 in Appeal No.10171/166/CIT(A)-7/Del./2018-19 dismissed the appeal of the assessee.

4. Aggrieved by the order of Ld. CIT(A), assessee is now in appeal before the Tribunal. Though various grounds are raised by the assessee, but, all grounds relates to the addition of Rs.22,22,585/- made by the A.O. under section

36(1)(iii) of the I.T. Act, 1961, which was confirmed by the Ld. CIT(A) in the *ex parte* order passed by him.

5. The Learned Counsel for the Assessee submitted that in first appeal before the Ld. CIT(A), the Ld. CIT(A) has not passed any speaking order in the matter in issue and the Ld. CIT(A) has not given proper opportunity of being heard while confirming the disallowance made by the A.O and passed the impugned *ex parte* order . Thus, the Ld. CIT(A) violated the principles of natural justice by not affording an opportunity of being heard to the assessee. He, therefore, prayed that the orders of the lower authorities be set aside and that the assessee be granted one more opportunity to plead his case before the Ld. CIT(A) to meet the ends of justice.

6. On the other hand, the Ld. D.R. relied on the orders of the lower authorities.

7. We have heard the rival submissions and perused the material on record. The perusal of Ld. CIT(A) order

reveals that Ld. CIT(A) has passed an *ex parte* order without deciding the issue on merits. Sub Section (6) of Section 250 of I. T. Act mandate the CIT(A) to state the points in dispute and thereafter assign the reasons in support of his conclusion. We are of the view that by dismissing the appeal without considering the issue on merits, Learned CIT(A) has failed to follow the mandate required in Sub Section (6) of Section 250 of the Act. Further it is also a well settled principle of natural justice that sufficient opportunity of hearing should be offered to the parties and no parties should be condemned unheard. In view of these facts, we set aside the impugned order of Ld. CIT(A) dated 21.05.2019 and restore the issue to the file of Ld. CIT(A) for re-adjudication of the issues after granting sufficient opportunity of hearing to the assessee. Assessee is also directed to furnish the details called for by the authorities. In view of our decision to restore the issue to Ld. CIT(A), we are not adjudicating on merits the ground raised by the assessee. **Thus the ground of assessee is allowed for statistical purposes.**

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

Order pronounced in the open court on 16.06.2022.

Sd/-
[N.K. CHOUDHARY]
JUDICIAL MEMBER

Sd/-
[ANIL CHATURVEDI]
ACCOUNTANT MEMBER

Delhi, Dated 16th June, 2022

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	Ld. CIT(A) concerned
4.	CIT concerned
5.	DR ITAT "F" Bench, Delhi
6.	Guard File

//By Order//

Assistant Registrar, ITAT, Delhi Benches,
Delhi.