

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. NARENDER KUMAR CHOUDHARY, JUDICIAL MEMBER**

ITA No. 6522/Del/2019  
(Assessment Year : 2016-17)

RDS CVCC JV C/o. RRA TAXINDIA, A-28, South Extension- Part- I, New Delhi -110 049  PAN No. AAAAR 6865 P <b>(APPELLANT)</b>	Vs.	ACIT Circle – 33(1) New Delhi  <b>(RESPONDENT)</b>
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Assessee by	Shri Deepesh Garg, Adv Ms. Muskan Shalya, C.A.
Revenue by	Shri T. Kipgen, CIT-D.R.

Date of hearing:	20.06.2022
Date of Pronouncement:	20.06.2022

**ORDER**

**PER ANIL CHATURVEDI, AM:**

This appeal filed by the assessee is directed against the order dated 25.06.2019 of the Commissioner of Income Tax (Appeals)-11, New Delhi relating to Assessment Year 2016-17.

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

3. Assessee is a resident who electronically filed the return of income on 17.10.2016 for A.Y. 2016-17 under Section 143(3) of the Act claiming a loss of Rs.23,10,281/-. The case was selected for scrutiny and thereafter assessment was framed under section 143(3) vide order dated 07.12.2018 wherein the total loss was determined at Rs.3,37,070/-.

4. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 25.06.2019 in Appeal No. 422/18-19 dismissed the appeal of the assessee. Aggrieved by the order of CIT(A), assessee is now in appeal and has raised the following grounds:

1. *“That having regard to the facts and circumstances of the case, Ld CIT(A) has erred in law and on facts in confirming the action of Ld AO in making disallowance of Rs.19,73,210/- on account of depreciation on plant and machinery and more particularly when the same were purchased and used by the assessee for the purpose of business and the impugned disallowance has been made by recording incorrect facts and findings and without providing adequate opportunity of being heard and in violation of principles of natural justice.*
2. *That in any case and in any view of the matter, action of Ld CIT(A) in confirming the action of Ld AO in making disallowance of Rs.19,73,210/- on account of depreciation on plant and machinery, is bad in law and against the facts and circumstances of the case.*
3. *That having regard to the facts and circumstances of the case, Ld CIT(A) has erred in law and on facts in passing the impugned order and that too without giving opportunity of being heard and in violation of principles of natural justice.*
4. *That the appellant craves the leave to add, modify amend or delete any of the grounds of appeal at the time of hearing*

*and all the above grounds are without prejudice to each other.”*

5. Before us, at the outset, Learned AR submitted that though various grounds have been raised by assessee but the sole controversy is that the CIT(A) has not considered the additional evidences furnished before him and not decided the issue on merits. He therefore submitted that in the interest of justice, assessee may be given one more opportunity of furnishing the required details and further the assessee undertakes to furnish all the required details called for by the authorities for disposing of the matter.

6. Learned DR on the other hand submitted that the assessee was totally non-cooperative during the appellate proceedings which showed that assessee was not interested in pursuing its case. Even on merits he submitted that assessee has not been able to establish that machinery was used by the assessee for the purpose of its business.

7. We have heard the rival submissions and perused the material available on record. The perusal of CIT(A) order reveals that 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 CIT(A) dated 25.06.2019 and restore the issue to the file of AO 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 AO, we are not adjudicating on merits the grounds raised by the assessee. **Thus the ground of assessee is allowed for statistical purposes.**

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

**Order pronounced in the open court on 20.06.2022**

**Sd/-  
(NARENDER KUMAR CHOUDHARY)  
JUDICIAL MEMBER**

**Sd/-  
(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

Date:- 20.06.2022

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**Copy forwarded to:**

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	20.06.2022
Date on which the typed draft is placed before the dictating Member	20.06.2022
Date on which the approved draft comes to the Sr.PS/PS	20.06.2022
Date on which the fair order is placed before the Dictating Member for Pronouncement	20.06.2022
Date on which the fair order comes back to the Sr. PS/ PS	20.06.2022
Date on which the final order is uploaded on the website of ITAT	20.06.2022
Date on which the file goes to the Bench Clerk	20.06.2022
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	