

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.1405/Del/2020
Assessment Year: 2007-08

M/s. Vijendra Surendra Exports Pvt. Ltd., 5, Ansari Road, Daryaganj, New Delhi	Vs.	DCIT, Circle-26(2), New Delhi
PAN :AAACV0974B		
(Appellant)		(Respondent)

Appellant by	Sh. Mayank Patwari, CA
Respondent by	Ms. Indu Sen, Sr. DR

Date of hearing	29.06.2022
Date of pronouncement	14.07.2022

ORDER

PER SAKTIJIT DEY, JM:

This is an appeal by the assessee against order dated 17.12.2019 of learned Commissioner of Income Tax (Appeals), Delhi, for the assessment year 2007-08.

2. We have heard Sh. Mayank Patawari, learned counsel appearing for the assessee and Ms. Indu Sen, learned Departmental Representative.

3. The primary grievance of the assessee is against ex-parte disposal of its appeal, that too, in limine by learned Commissioner (Appeals). On perusal of impugned order of learned Commissioner (Appeals), it is observed, learned Commissioner (Appeals) has dismissed assessee's appeal in limine, alleging that the assessee had not filed any documents such as Form 35, assessment order, grounds of appeal, demand notice etc. The aforesaid finding of learned Commissioner (Appeals) is contradictory considering the fact that in the opening paragraph of the impugned order, learned Commissioner (Appeals) has observed that the information given by the assessee in Form no. 35 regarding the date of service of demand notice and payment of admitted tax is taken to be correct. In any case of the matter, if assessee's appeal was defective, learned Commissioner (Appeals) should have granted a fair opportunity to the assessee to remove the defect and thereafter should have decided the appeal. Prima facie, it appears that no such opportunity was granted to the assessee by learned Commissioner (Appeals) and the appeal was decided ex-parte.

4. Thus, in our view, while deciding the appeal learned Commissioner (Appeals) has not followed the principles of rules of Natural Justice. In view of the aforesaid, we set aside the impugned

order of learned Commissioner (Appeals) and restore the matter back to him for de novo adjudication. In case, there is any defect in the appeal filed by the assessee, learned Commissioner (Appeals) must call upon the assessee to remove the defect and thereafter decide the appeal on merits after providing due opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

5. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 14th July, 2022

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 14th July, 2022.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi