

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

**BEFORE,
SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.374/Del/2020
(ASSESSMENT YEAR 2015-16)**

Falcon Buildtech Pvt. Ltd. B-252, Basement-2 Sant Nagar New Delhi-110 065 PAN-AABCF 0096M	Vs.	Income Tax Officer, Ward-9(1) New Delhi
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Sh. Jagdish Singh, Senior Departmental Representative ("Sr. DR" for short)

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals), Delhi ["Ld. CIT(A)", for short], dated 07/11/2019 for Assessment Year 2015-16. Grounds taken in this appeal are as under:

"1. In the absence of specific opportunity to present it's case and considering the facts and circumstances of the case of the appellant, the CIT(A) has erred in passing the impugned order without giving reasonable opportunity to the appellant which is against the principle of natural justice.

2. *The Ld. AO is wrong on facts and bad in law in making an addition of Rs.64,85,040/- u/s 40A(3) of the Income Tax Act, 1961 against cash payments made for purchase of lands.*

That the appellant craves leave to add, alter amend or withdraw any of the grounds of appeal at the time of hearing.”

(B) In this case, the assessee's appeal filed in the office of the Ld. CIT(A) was dismissed ex-parte vide impugned appellate order dated 07/11/2019. The Ld. CIT(A) had fixed hearing on 22/10/2019 vide notice dated 10/10/2019. On the scheduled date of hearing on 22/10/2019, the assessee did not appear before the Ld. CIT(A) and instead filed an adjournment application. The Ld. CIT(A) declined adjournment and proceeded to pass impugned appellate order dated 07/11/2019 *ex-parte*. Aggrieved, the assessee has filed the present appeal in Income Tax Appellate Tribunal ("ITAT" for short) against the aforesaid impugned appellate order dated 07/11/2019 of the Ld. CIT(A). At the time of hearing before us, the assessee was represented by none. In the absence of any representation from the assessee's side, we heard the Ld. Sr. DR for Revenue. The Ld. Sr. DR for Revenue submitted before us, at the time of hearing, that the issue in dispute in the present appeal regarding addition of Rs.64,85,040/- may be restored back to the

file of the Ld. CIT(A) for a fresh order in accordance with law after providing reasonable opportunity to the assessee.

(C) We have heard the Ld. Sr. DR for Revenue. We have perused the materials on record. On perusal of the impugned appellate order dated 07/11/2019, we find that the Ld. CIT(A) has not discussed the grounds on which the assessee had sought adjournment in respect of hearing scheduled on 22/10/2019. We also find that the Ld. CIT(A) has not passed speaking order explaining why adjournment sought by the assessee was declined. We have also taken due cognizance of the first ground of the appeal in the present appeal before us, in which the assessee has expressed grievance that the impugned order was passed without giving reasonable opportunity to the appellant against the principle of natural justice. In view of the foregoing, and after considering the submissions made before us by the Ld. Sr. DR for Revenue, we set aside the impugned appellate order dated 07/11/2019 of the Ld. CIT(A) and restore the disputed issue regarding the addition of Rs.64,85,040/- to the file of the Ld. CIT(A) for a fresh order in

accordance with law after providing reasonable opportunity to the assessee.

(D) In the result, this appeal is partly allowed for statistical purposes.

This order was already pronounced orally on 26th July, 2022 in Open Court, in the presence of Ld. Sr. DR for Revenue, after conclusion of the hearing. Now this order in writing is signed today on 26/07/2022.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 26/07/2022

Pk

Copy forwarded to:

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

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW, DELHI