

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

**BEFORE,  
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.1473/Del/2019  
(ASSESSMENT YEAR 2010-11)**

CPR Capital Service Ltd. A-66, 2 <sup>nd</sup> Floor Guru Nanak Pura Vikas Marg, Delhi-110 092  PAN-AAACC 3235A <b>(Appellant)</b>	Vs.	ACIT, Circle-6(2) New Delhi-110 002  <b>(Respondent)</b>
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Appellant by	Sh. V. Rajkumar, Advocate
Respondent by	Sh. R. S. Yadav, 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)-2, New Delhi ["Ld. CIT(A)", for short], dated 31/12/2018 for Assessment Year 2010-11.

Grounds taken in this appeal are as under:

*"1. That on the facts and in the circumstances of the case and in law the Ld. CIT(Appeals) erred:*

- i. *in passing order under section 250(6) of the Income Tax Act, 1961 dismissing the appeal without providing due and adequate opportunity of hearing:*
- ii. *in confirming the action of the Assessing Officer making addition of Rs.60,24,482/- holding that the assessee has earned commission on providing alleged profit/losses by resorting to Clients Code Modification.*

*Both the above actions being arbitrary, erroneous and unlawful must be quashed with direction for appropriate relief.*

(B) In this case, assessment order dated 30/03/2016 was passed by the Assessing Officer wherein the assessee's total income was assessed at Rs.1,60,11,332/- as against returned income of Rs.99,86,850/-. An addition of Rs.60,24,482/- was made to the assessee's income on account of income from providing bogus losses/profits. The assessment order was passed *ex-parte*, by invoking section 144 of Income Tax Act. The assessee filed appeal in the office of the Ld. CIT(A). Vide impugned appellate order dated 31/12/2018, the Ld. CIT(A) dismissed the assessee's appeal *ex-parte*, thereby confirming the aforesaid addition of Rs.60,24,482/-. The present appeal before us has been filed by the assessee against

the aforesaid impugned appellate order dated 31/12/2018 of the Ld. CIT(A).

(B.1) At the time of hearing before us, the Ld. Counsel for the assessee submitted that the assessment order was passed by the Assessing Officer without giving reasonable opportunity to the assessee. He further submitted that the Ld. CIT(A), vide impugned appellate order dated 31/12/2018, dismissed the assessee's appeal against the aforesaid assessment order, *ex-parte*, without providing reasonable opportunity to the assessee. He submitted that the issue in dispute in the present appeal, regarding the addition of Rs.60,24,482/-, should be set aside to the file of the Assessing Officer with the direction to pass a fresh order in accordance with law after providing reasonable opportunity to the assessee. The Ld. Sr. DR for Revenue was in agreement with the submissions of the Ld. Counsel for the assessee.

(B.2) The Ld. Sr. DR for Revenue also agreed with the submissions of the Ld. Counsel for the assessee that the issue in dispute in the

present appeal, regarding the addition of Rs.60,24,482/-, should be set aside to the file of the Assessing Officer with the direction to pass a fresh order in accordance with law after providing reasonable opportunity to the assessee.

(B.2.1) We have heard the representatives of both sides. At the time of hearing before us, there was no material dispute between the representatives of both sides, i.e., between Ld. Counsel for the assessee and Ld. Sr. DR for Revenue. Representatives of both sides were in agreement that the issue in dispute in the present appeal, regarding the addition of Rs.60,24,482/-, should be set aside to the file of the Assessing Officer with the direction to pass a fresh order in accordance with law after providing reasonable opportunity to the assessee. In view of the foregoing, and as representatives of both sides are in agreement with this, we hereby set aside the impugned appellate order dated 31/12/2018 of the Ld. CIT(A), and we restore the issue regarding the aforesaid addition of Rs.60,24,482/- to the file of Assessing Officer with the direction to pass a fresh order in accordance with law after providing reasonable

opportunity to the assessee. The grounds of appeal are treated as disposed off in accordance with aforesaid directions.

(C) For statistical purposes, this appeal filed by assessee is partly allowed.

This order was already pronounced orally on 10<sup>th</sup> August, 2022 in Open Court, in the presence of representatives of both sides. Now, this order in writing is signed today on 11/08/2022.

Sd/-  
**(CHANDRA MOHAN GARG)**  
**JUDICIAL MEMBER**

Dated: 11/08/2022

*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