

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

**BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER AND  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No.1047/DEL/2020  
[Assessment Year: 2011-12]**

M/s Delight Resort Pvt. Ltd. Plot No.127A, Shop No.8, Shakti Khand-I, Indirapuram, Ghaziabad (UP)-201014	Vs	Income Tax Officer, Ward-7(1), New Delhi
<b>PAN-AACCD3031D</b>		
Assessee		Revenue

Assessee by	Sh. Lakshya Budhiraja, CA
Revenue by	Sh. R.S. Yadav, Sr. DR

<b>Date of Hearing</b>	<b>19.10.2022</b>
<b>Date of Pronouncement</b>	<b>21.10.2022</b>

**ORDER**

**PER DIVA SINGH, JM,**

The present appeal has been filed by the assessee wherein the correctness of the order dated 13.01.2020 of CIT(A)-3, New Delhi pertaining to 2011-12 assessment year is assailed. At the time of hearing, an adjournment was moved on behalf of the assessee. Considering the fact that the impugned order is ex-parte order, it was passed over.

2. In the next round, the Ld. AR was required to address why the assessee remained unrepresented before the Ld. CIT(A) on the specific date. Attention of the Ld. AR was invited to the following ground raised in the appeal.

*“1. That the order dated 13.01.2020 passed u/s 250 of the Act by the Ld. Commissioner of Income-Tax (Appeals)-03, New Delhi is against law and facts on the file in as much as he was*

*not justified in passing the order and dismissing the appeal without giving an opportunity of being heard to the Appellant Company on the ground that, allegedly, it has not availed the opportunities provided to it and in particular holding that there was no compliance on 08.01.2020 whereas the fact of the matter is that a letter seeking adjournment was duly filed electronically.”*

3. Mr. Lakshya Budhiraja, C.A. appearing on behalf of the assessee, stated his inability to address this fact and instead requested for adjournment. The said request was rejected, the reasons for rejection of the adjournment request are set-out hereinafter.

4. A perusal of the impugned order shows that the appeal of the assessee was dismissed for non-representation in view of the fact that despite opportunity, the assessee remained unrepresented. As per the pleading made in the aforesaid ground apparently adjournment application appears to have been moved on the said date which may have remained unnoticed. It is further seen that the Ld. CIT(A) has relied upon the decisions of Delhi ITAT in the case of CIT vs Multiplan India Pvt. Ltd. 38 ITD 320(Del. Trib.) and the decision of Hon'ble Supreme Court in the case of B.N. Bhattacharya (1997) 118 ITR 461 (SC). It is seen that the Ld. CIT(A) while disposing the appeal is mandated by the Income Tax Act to set-out the points for determination, the decision thereon and the reasons, of the First Appellate Authority for concurring with the order or modifying, etc. We have seen that the order under challenge does not meet these statutory requirements as set-out in sub-section (6) of section 250 of the Act. Accordingly, in order to set right this statutory deficit, the impugned order is set-aside back to the file of the Ld. CIT(A) with a

direction to pass a speaking order in accordance with law, after giving the assessee a reasonable opportunity of being heard. In the interest of the assessee, it is directed that the opportunity so provided to the assessee in terms of Ground No.1 filed before the ITAT is utilized fully and fairly and not abused. Accordingly, the adjournment request of the assessee is rejected. The issue is restored back to the file of the Ld. CIT(A) with the aforesaid direction.

5. The appeal of the assessee is allowed for statistical purposes.

The said order was pronounced in the open Court itself on 21<sup>st</sup> October, 2022.

**Sd/-**

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**

**Sd/-**

**[DIVA SINGH]  
JUDICIAL MEMBER**

**Delhi;** 21.10.2022.

*Shekhar,*

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi