

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,
NEW DELHI

BEFORE SMT DIVA SINGH, JUDICIAL MEMBER

ITA No. 3206/DEL/2019 [A.Y 2015-16]

Shri Ashish Sharma B-58, Anarkali Garden Jagat Puri, New Delhi	Vs.	The Income tax Officer Ward 59(5) New Delhi
--	-----	---

PAN: BKUPS 3800 H

Assessee By : None

Department By : Shri Om Prakash, Sr. DR

Date of Hearing : 25.10.2022

Date of Pronouncement : 26.10.2022

ORDER

The present appeal has been filed by the assessee wherein the correctness of the order dated 11.02.2019 of CIT(A) - 19 New Delhi pertaining to 2015-16 assessment year is assailed on various grounds including Ground No. 1 wherein lack of opportunity is pleaded.

2. However, at the time of hearing, the assessee filed written submissions. None was present for and on behalf of the assessee. Appeal was passed over. In the second round also, the assessee remained unrepresented.

3. The ld. Sr. DR submitted that he has no objection in case the issue is restored back for lack of opportunity. However, the evidences relied upon are not sufficient for deleting the addition sustained.

4. It is seen that the assessee, despite an opportunity, has filed written submission and admittedly has chosen not to be available for arguments. Considering the submissions of the ld. Sr.DR, it is seen that the evidence admittedly is not sufficient and complete. Accordingly in the light of Ground No. 1 raised in the present proceedings, after hearing the ld. Sr. DR, it is deemed appropriate to set aside the impugned order. It is seen that admittedly, before the ld. CIT(A), the assessee has failed to appear which fact is agitated vide Ground No.1. It is also a fact that the addition sustained by the ld. CIT(A) has caused grievance to the assessee which subsists. Thus in the light of the submissions of the department and considering the record, it is deemed appropriate to set aside the issue back to the file of ld. CIT(A) with a direction to pass a speaking order in accordance with law after giving a reasonable opportunity of being heard to the assessee.

5. While so directing, it is made clear that the assessee in its own interests should ensure full and proper participation before the First Appellate Authority and not to abuse the trust reposed in him. At the same time it is made clear that in the eventuality of the abuse of the trust reposed the ld. CIT(A) shall be at liberty to pass an order in accordance with

law on the basis of material available on record. Said order was pronounced in the open court at the time of hearing itself.

6. Accordingly, the appeal filed by the assessee is allowed for statistical purposes.

Said order was pronounced in open court on 26th October, 2022.

Sd/-

(DIVA SINGH)
JUDICIAL MEMBER

Dated: 26.10.2022

VL/PK