

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC” DELHI**

BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER

I.T.As. No.1979 & 1980/DEL/2020
Assessment Years 2010-11 & 2011-12

Vinay Verma, B-19, Sector-20, Noida Gautam Budha Nagar, Gautam Budh Nagar, Uttar Pradesh.	Vs.	ITO, Ward-2(5), Noida.
TAN/PAN: ADOPV5536J		
(Appellant)		(Respondent)

Appellant by:	None		
Respondent by:	Shri Om Prakash, Sr.DR		
Date of hearing:	26	10	2022
Date of pronouncement:	28	10	2022

ORDER

PER BENCH:

The captioned appeals have been filed by the Assessee against the separate orders of the Commissioner of Income Tax (Appeals)-I, Noida (‘CIT(A)’ in short) dated 29.11.2018 and 28.03.2018 arising from the separate assessment orders of even date 30.11.2017 passed by the Assessing Officer under Section 147 r.w. Section 144 of the Income Tax Act, 1961 (the Act) concerning AYs 2010-11 and 2011-12.

2. As per its grounds of appeal, the assessee in the respective appeals has agitated against the additions confirmed by the CIT(A) on merits.
3. When the matter was called for hearing, none appeared for the assessee.

4. The Id. Sr.D.R. relied upon the order of the CIT(A).
5. On a perusal of the orders of the First Appellate Authority, It is seen that the CIT(A) has disposed of the appeals against the assessee mainly on the premise that the assessee has failed to corroborate his grievance with any substantive evidence.
6. The record shows that the orders are shown to have been passed on 29.11.2018 and 28.03.2018 for Assessment Years 2010-11 and 2011-12 respectively. The memo of Appeals filed shows that the orders have been served/communicated to assessee on 15.12.2020 in both the appeals, i.e., after an inordinate delay of more than two years. Such inordinate delay has a propensity to induce disquiet in the mind of the tax payer and cast aspersions on the fair conduct on the part of revenue. The CIT(A) is expected to follow the guiding principles in letter and spirit as provided in CBDT Instruction No.20/2003 dated 23.12.2003 which was reiterated vide CBDT letter F.No.279/Misc. 53/2003 ITJ dated 19.06.2015. Another communication F.No. DGIT (Vig.) /HQ /SF/Appeals/2017-18/9959 dated 08.03.2018 was yet again issued by CBDT to give impetus to timely dispatch of orders passed by CIT(A) to shun any suspicious about backdating and *mala fide* intent.
7. Thus I find sufficient grounds to hold that such belated service of the order of the First Appellate Authority does cast some aspersions on fair play. However, without going into the nuances of such controversy, I consider it expedient to restore the issues back to the file of the CIT(A) for *denovo* adjudication in accordance with law after giving proper opportunity to the assessee in this regard. The assessee is also cautioned to diligently

attend the proceedings of the First Appellate Authority and extend full co-operation in the inquiry and explanation as may be sought by the CIT(A). With these observations, the impugned orders of the CIT(A) are set aside and restored back to the file of the CIT(A) for fresh adjudication in accordance with law.

8. In the result, both the captioned appeals of the assessee are allowed for statistical purposes *ex-parte*.

Order was pronounced in the open Court on 28/10/2022.

Sd/-
[DIVA SINGH]
JUDICIAL MEMBER

DATED: **28/10/2022**

prabhat