

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

**BEFORE SMT DIVA SINGH, JUDICIAL MEMBER**

ITA No.1541/DEL/2022  
Assessment Year: 2017-18

Vikas LPG Bottling Plant Pvt. Ltd. A1/13-A, Major Ashwini Kannav Marg, Paschim Vihar, New Delhi-110063 PAN No.AABCV2138E	Vs	ITO Ward- 26 (3) Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Samyak Jain, Advocate
Respondent by	Sh. Om Prakash, Sr. DR

Date of hearing:	27/10/2022
Date of Pronouncement:	28/10/2022

**ORDER**

**PER DIVA SINGH, JM**

The present appeal has been filed by the assessee wherein the correctness of the order dated 25.06.2021 passed by NFAC, Delhi as per First Appellate Authority, pertaining to A.Y.2017-18 assessment year is assailed on various grounds including ground No.2 which reads as under :-

*“2. The Ld. Commissioner of Income Tax (A), NFAC has erred on facts and in law in passing the ex-party order without providing opportunity to the appellant to explain the case and sustain the claim.*

2. However, before addressing the specific grievance of the assessee on which the parties were heard it is appropriate to mention that the adjournment application moved by the AR's seeking time was withdrawn.

3. Both the parties have been heard.

4. A perusal of the impugned order in the context of the ground raised shows that the appeal was listed on specific date on which date on adjournment application was moved. On the next date the assessee failed to appear. Recording these facts, the First Appellate Authority confirmed the addition made by the Assessing Officer considering the provisions of section 68 of the Act. The reason for upholding the addition and dismissing the appeal as per record is for non appearance on 07.04.2021. Attention has been invited to an application on record incorrectly described as condonation of delay application herein it has been pleaded that an adjournment application had been moved on 06.09.2021 pleading that the AR engaged was committed to some previous assignments. However, the said request remained ignored

leading to the passing of the exparte order wherein the assessee remained oblivious of the order passed.

5. Considering the facts as available on record and accepting the oral undertaking given by the AR that the assessee shall participate in the proceedings before the First Appellate Authority in the eventually the impugned order is set aside the order is accordingly set aside. While restoring the issue back to the file First Appellate Authority to pass an order in accordance with law, it is made clear that the opportunity so provided to give an effective hearing is utilised fully and fairly. The assessee is also directed to ensure full and proper participation before the said authority.

5. 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 the open court on 28<sup>th</sup> October, 2022.

**Sd/-**  
**(DIVA SINGH)**  
**JUDICIAL MEMBER**

*\*NEHA, Sr. Private Secretary\**

Date:- 28.10.2022

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

		Date	
1.	Draft dictated on		PS
2.	Draft placed before author		PS
3.	Draft proposed & placed before the second member		JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS		PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk		PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		