

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" DELHI**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.1478/DEL/2020
Assessment Year 2015-16

ITO, Ward-1(1), Ghaziabad.	Vs.	ANG Infrastructure & Consultants Pvt. Ltd., M-103, Rgalia Heights, Shipra Suncity, Indirapuram, Ghaziabad.
TAN/PAN: AALCA2459B (Appellant)		(Respondent)

Appellant by:	Shri Kanav Bali, Sr.D.R.		
Respondent by:	Shri Rajkumar, CA		
Date of hearing:	02	11	2022
Date of pronouncement:	02	11	2022

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the Revenue against the order of the Commissioner of Income Tax (Appeals)-I, Noida ['CIT(A)' in short] dated 29.09.2018 arising from the assessment order dated 15.12.2017 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2015-16.

2. As per its grounds of appeal, the assessee has *inter alia* challenged the jurisdiction of the CIT(A), Noida to pass the first appellate order.

3. On perusal of the first appellate order, it is noticed that the first appellate order has been passed *ex-parte*.

4. It is not discernible as to whether the notice sent for hearing was actually served upon the assessee or not. The CIT(A) has declined to admit the appeal of the assessee and dismissed the same *in limine* on the ground that copy of demand notice and challan fee for admission of appeal is not available on record.

3. On perusal of the record, it is difficult to ascertain the relevant facts from the cryptic order of the CIT(A). The CIT(A) has not given a finding that notice of hearing was actually served upon the assessee. In fact, at one place, it was mentioned that notice sent by the CIT(A) was returned by the postal authorities concerned on the ground that address of service is incomplete. Thus, it appears that the first appellate order has been passed without giving any effective opportunity to the assessee. It is noticed that the assessee has also challenged the correctness of the jurisdiction assumed by the first appellate authority while passing the *ex-parte* order.

4. Under the circumstances and the totality of the facts available, we set aside the order of the CIT(A) and revive the first appellate proceedings before the CIT(A) for fresh adjudication in accordance with law after giving proper opportunity of being heard by the competent first appellate authority.

5. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the open Court on 02/11/2022.

Sd/-

**[CHANDRA MOHAN GARG]
JUDICIAL MEMBER**

DATED: /11/2022

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**