

**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.1767/DEL/2020  
Assessment Year 2013-14

Ammonia Supply Co., Plaza-1, Unit 1073, Central Square, 20, Manohar Lal Khurana Marg, Bara Hindu Rao, Delhi.	Vs.	Commissioner of Income Tax (Appeals)-20, New Delhi.
TAN/PAN: AAIFA0098E		
(Appellant)		(Respondent)

Appellant by:	Shri Yogender Kapoor CA		
Respondent by:	Shri Kanav Bali, Sr.DR		
Date of hearing:	03	11	2022
Date of pronouncement:	03	11	2022

**ORDER**

**PER PRADIP KUMAR KEDIA, A.M.:**

The captioned appeal has been filed at the instance of the Assessee against the order of the Commissioner of Income Tax (Appeals)-XX, New Delhi ['CIT(A)' in short], dated 31.11.2016 arising from the assessment order dated 18.03.2016 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2013-14.

2. The grounds of appeal raised by the assessee read as under:

*"That we had filed an application with the Commissioner of Income Tax Appeals-20 vide letter dated 14th July 2016 regarding Change of registered office from*

*18, New Colony, Model Basti, New Delhi-110055 to Plaza- 1, Unit*

*1073, Central Square, 20, Manohar Lai Khurana Marg, Bara Hindu Rao, Delhi -110006 to*

*Plaza-1, Unit 1073, Central Square, 20, Manohar Lai Khurana Marg, Bara Hindu Rao, Delhi -110006 with effect from 19th May 2016 ( Copy enclosed ) .*

*This fact was deliberately ignored by the Commissioner of Income Tax Appeals - 20 in his order.*

2. *That the fixation of Appeal and passing of an Ex parte Order for no appearance by the Assessee or his Authorized Representative was carried out by the Commissioner of Income Tax Appeals-20 by service of Notice by post at our old Address and not new Address as mentioned hereinabove. No Email Communication was carried out from the then office of the Commissioner of Income Tax Appeals - 20 at the registered Email address of the Assessee with the Income Tax Department.*

3. *That the reason for delay in filing of our Second Appeal with the Hon .ITAT , New Delhi bench is that we had made an application with the Commissioner of Income Tax Appeals-20 now Commissioner of Income Tax Appeals - 33 for review of his order passed on 30.11.2016 based on Professional advice provided and the same had remained pending for his reply until date from the office of the Commissioner of Income Tax Appeals-20 now Commissioner of Income Tax Appeals - 33 ( Copy enclosed) and we hereby request and make prayer that the delay be Condoned for this reason and remanded back to the Commissioner of Income Tax Appeals - 33 for review of the First Appeal with the original grounds of Appeal.”*

3. With the assistance of the Id. counsel for the assessee, we notice that the first appellate order has been passed *ex-parte* in the absence of the assessee. In this context, the Id. counsel states that the registered office address of the assessee was changed and

intimation to this effect was given to the CIT(A) vide letter dated 14.07.2016, copy of which is placed at page 38 of the paper book. No notice was served in new address or any e-mail communication was made either to this effect. The Id. counsel pointed out that the assessee does not stand to benefit by not attending the first appellate proceedings and it cannot be presumed in the circumstances that assessee has committed any culpable negligence in not attending the proceedings before the CIT(A).

4. In the light of the submissions made on behalf of the assessee along with substantiation thereof, we find traction in the plea of the assessee for non attendance before the CIT(A).

5. Non service of notice at the new address has clearly deprived the assessee to avail the opportunity entitled to him. Thus, the order passed *ex-parte* in the circumstances is at odds with principle of natural justice. In the balance of things, we set aside the order of the CIT(A) and restore it back to the file of the CIT(A) for deciding the appeal afresh in accordance with law after giving proper opportunity of being heard. The assessee is cautioned to attend the proceedings before the First Appellate Authority diligently and without any demur as per the mode prescribe in law.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open Court on 03/11/2022.**

Sd/-

**[CHANDRA MOHAN GARG]  
JUDICIAL MEMBER**

DATED: /11/2022

*prabhat*

Sd/-

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**