

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORE,
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.7681/Del/2019
(ASSESSMENT YEAR 2014-15)**

CBS Holding Private Limited c/o SB Garg & Co., CAs 20/17, Shakti Nagar, New Delhi-110 007 PAN-AADCC3702D (Appellant)	Vs.	Income Tax Officer, Ward-5(4) New Delhi (Respondent)
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Appellant by	Mr. Sachin Kumar, CA
Respondent by	Mr. Ranjit Kaur, Senior Departmental Representative ("Sr.-DR" for short)

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-2, New Delhi [Ld. CIT(A)", for short], dated 29/07/2019 for Assessment Year 2014-15.

Grounds taken in this appeal are as under:

"1. The ld. Commissioner of Income Tax (Appeals)-2, New Delhi [hereinafter the CIT(A)] failed to provide proper opportunity of hearing and erred in deciding the appeal ex-party.

2. *The impugned order by the ld. CIT(A) is in violation of the Board's Instruction No.20/2013 dated 23-12-2003 reiterated on 19-06-2015 vide F.No.279/Misc. 53/2003-ITJ, as the appeal was purportedly heard on 08-07-2019 and the impugned order was passed on 29-07-2019.*
3. *The ld. CIT(A) erred in dismissing the ground of appeal No.10 that is "The assessment made under section 143(3) of the Act is bad in law, null and void ab initio inter alia because: (1) the case for scrutiny was selected by CASS, which is in gross violation of provisions of section 143(2) of the Act; (2) any notice u/s 143(2) of the Act, which is sine qua non for assumption of jurisdiction, was not served upon the Assessee within the statutory mandatory limitation of time period "these grounds are general in nature and do not require specific adjudication."*
4. *The ld. CIT(A) erred in upholding the disallowing Rs.3,44,718 u/s 40(a)(ia) of the Act.*
5. *The ld. CIT(A) erred in upholding the addition of Rs.83,04,994 u/s 68 of the Act.*
6. *The ld. CIT(A) erred in upholding the addition of Rs.15,80,109 being the purported difference in the balance of two creditors.*
7. *The ld. CIT(A) erred in dismissing the ground of appeal No.5 that is "There is no specific direction by the ld. AO in the assessment order to charge interest and therefore, the ld. AO in the assessment order to charge interest and therefore, the ld. AO erred in charging interest u/s 234A and 234B of the Act and without prejudice, the same is excessive." by observing that "interest being compensatory and consequential in nature is mandatory."*
8. *The ld. CIT(A) erred in dismissing the following ground of appeal:*
 6. *The ld. AO failed to provide proper opportunity of hearing to the Assessee.*
 7. *The ld. AO failed to consider the documents/evidences submitted before the ld. AO.*
 8. *The assessment order and observations made therein are against the facts of the case as well as law.*
 9. *The ld. AO failed to appreciate the facts of the case and the submissions made by the Assessee."*

by observing that “these grounds are general in nature and do not require specific adjudication.”

9. The impugned order as well as the assessment order and the observations made therein are against the facts of the case as well as law.

(B) In this case, assessment order dated 29/12/2016 was passed by the Assessing Officer (“AO” for short) u/s 143(3) of the Income Tax Act wherein the assessee’s income was assessed at Rs.92,48,420/-. The assessee filed appeal against the assessment order in the office of the Ld. CIT(A). Vide impugned appellate order dated 29/07/2019, the Ld. CIT(A) dismissed the assessee’s appeal. The assessee’s appeal was dismissed by the Ld. CIT(A) on merits in the absence of any submission/document/paper book filed from the assessee’s side.

(C) At the time of hearing before us, the Ld. Authorized Representative (“AR” for short) for the assessee, Sh. Sachin Kumar, Chartered Accountant, submitted that the assessee could not file submissions/documents/paper book during the appellate proceedings in the office of the Ld. CIT(A) because of health reasons. He submitted that the concerned person Mr. Vikas Singla, the Director of the assessee company was suffering from bad health. A copy of Medical Certificate issued by Dr. R.P. Singh is placed on

record. In response to query from Bench, the representatives of both sides, the Ld. Sr. DR for Revenue as well as Ld. AR for assessee were in agreement that the issues in dispute may be set aside to the file of the Ld. CIT(A) with the direction to pass fresh order in accordance with law after providing reasonable opportunity to the assessee.

(D) In view of the foregoing and as representatives of both sides are in agreement with this, we set aside the impugned appellate order dated 29/07/2019 of the Ld. CIT(A) and restore all the issues in dispute to the file of the Ld. CIT(A) with the direction to pass *denovo* order in accordance with law after providing reasonable opportunity to the assessee.

(E) This order was already pronounced orally on 30.01.2023 in Open Court, in the presence of representatives of both sides, after conclusion of the hearing. This written order is now signed today on 30/01/2023.

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 30/01/2023
Pk

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI