

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

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI C.M. GARG, JUDICIAL MEMBER

ITA No.1757/Del/2020  
Assessment Year: 2016-17

Dura Line India Private Ltd.,  
7<sup>th</sup> Floor, Tower Neil,  
Neil Rao Towers, Road No.3,  
EPIP Phase I,  
Whitefield,  
Bangalore – 560 066.

Vs. ACIT,  
Circle-7(2),  
New Delhi.

PAN: AABCD4024B

(Appellant)

(Respondent)

Assessee by	:	Ms Preeti Goel, AR
Revenue by	:	Shri Pankaj Khanna, Sr. DR
Date of Hearing	:	27.02.2023
Date of Pronouncement	:	23.03.2023

ORDER

PER C.M. GARG, JM:

This appeal filed by the assessee is directed against the order dated 04.02.2020 of the CIT(A)-3, New Delhi, relating to Assessment Year 2016-17.

2. Apropos ground No.1, the Id. Assessee's representative submitted that the order of the Id.CIT(A) has been passed on incorrect interpretation of law and facts and by wrongly stating that the assessee had not complied with the notice dated 10<sup>th</sup> January, 2020. The Id. AR, drawing our attention to the first appellate order, submitted that the Id.CIT(A) has dismissed the appeal of the assessee on the allegation of non-prosecution of appeal without adjudicating the grounds of the

assessee raised in Form No.35 of the first appeal keeping aside the submissions and explanation of the assessee. Therefore, the Id. AR submitted that the assessee was not provided due opportunity of hearing before the Id.CIT(A) and the impugned first appellate order has been passed in violation of principles of natural justice.

3. Replying to the above, the Id. Sr. DR strongly supported the orders of the authorities below and submitted that despite several notices to the assessee, the assessee did not comply with the same, therefore, the Id.CIT(A) had no option, but to adjudicate the appeal *ex parte qua* the assessee on account of non-prosecution of the appeal by the assessee. However, he did not dispute a glaring fact that the Id.CIT(A) has adjudicated the appeal in a cryptic manner without properly considering the grounds of the assessee raised in Form No.35 and explanation and submissions of the assessee already on record filed before the AO.

4. On careful consideration of the above rival submissions, we are of the considered view that in a case the Id.CIT(A) proceeds to adjudicate the appeal of the assessee on account of non-compliance of notices, then also, as per sub-section (6) of section 250 of the Income-tax Act, 1961 the Id. First appellate authority is duty bound to adjudicate all grounds of appeal by taking into consideration the assessment order as well as evidences and explanation filed by the assessee before the AO during assessment proceedings and all relevant material already available on record. But, in the present case, the Id.CIT(A) has dismissed the appeal of the assessee by passing a very cryptic order in para 3.2 only from which it is clearly discernible that the Id.CIT(A) has not properly adjudicated the effective grounds of the assessee raised in Form No.35 and simply dismissed the same in a cryptic manner without considering

the submissions and explanations of the assessee filed before the AO. In such a situation, we are of the considered view that when the assessee has not been provided due opportunity of hearing by the Id.CIT(A) and the Id.CIT(A) has not adjudicated the appeal properly, then, we find it just and proper to restore the appeal to the Id.CIT(A) to the first appellate stage for denovo adjudication of appeal after allowing due opportunity of hearing to the assessee and without being influenced by the earlier first appellate order. Accordingly, ground No.1 of the assessee is allowed.

5. Since, by the earlier part of this order, we have restored the appeal to the file of the Id.CIT(A) for a fresh adjudication, therefore, other grounds of the assessee are not being adjudicated upon.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes only.

Order pronounced in the open court on 23.03.2023.

Sd/-

(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Dated:23<sup>rd</sup> March, 2023.

dk

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-

(C.M. GARG)  
JUDICIAL MEMBER

Asstt. Registrar, ITAT, New Delhi