

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

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

ITA No.1454/Del/2020
Assessment Year: 2015-16

ITO, Ward-1(2), Ghaziabad	vs.	M/s Dhanwa Transport, Village Banthla, Loni, Ghaziabad, UP 201102 PAN AAJFD 6041 R
(Appellant)		(Respondent)

For Revenue:	Shri Pankaj Khanna, Sr. DR
For Assessee :	None

Date of Hearing :	01.03.2023
Date of Pronouncement :	29.05.2023

ORDER

PER CHANDRA MOHAN GARG, J.M.

This appeal has been filed against the order of CIT(A)-1 Noida dated 28.09.2018 for AY 2015-16.

2. When the case called for the hearing neither the assessee nor any authorized representative appeared nor any adjournment application has been filed despite several notices. On perusal of the appeal records we find that this appeal can be adjudicated after hearing the arguments of Id. Senior DR ex-parte qua assessee. Hence, we proceed to adjudicate this appeal.

3. The sole grievance of revenue is that the Id. CIT(A) has adjudicated the appeal without having jurisdiction ex-parte qua assessee and has passed a cryptic order therefore the matter may kindly be restored to the file of Id. CIT(A) to the first appellate stage.

4. From perusal of the records we find that the Id. CIT(A) has dismissed appeal of assessee confirming the additions and therefore the assessee has not succeeded to

secure prayed relief before the Id. CIT(A). In such a situation if the matter/appeal is restored to the file of Id.CIT(A) to the first appellate stage for proper adjudication of first appeal as per requirement of sub section 6 of section 250 of the I.T Act 1961, then there would be no grievance to the assessee. Therefore keeping in view totality of the facts and circumstances and first appellate order, we find it appropriate to restore the matter to the file of Id. CIT(A) for a fresh adjudication of first appeal after allowing due opportunity to the assessee and without being influenced with the earlier order.

5. Therefore, impugned first appellate order is set aside and matter/appeal is restore to the file of Id. CIT(A) to the first appellate stage with the aforesaid directions.

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

Order pronounced in the open court on 29.05.2023.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Dated: 29th May, 2023.

NV/-

Copy forwarded to :

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

// By Order //

Asstt. Registrar, ITAT, New Delhi