

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

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

I.T.A. No.978/DEL/2020
Assessment Year 2009-10

Gardenia Shelters Pvt. Ltd. E-16A, Sector-61, Noida Uttar Pradesh	Vs.	ACIT (TDS) Circle-74(1) New Delhi
TAN/PAN: AADCG4091K		
(Appellant)		(Respondent)

Appellant by:	None		
Respondent by:	Shri Sanjay Kumar Yadav, Sr.DR		
Date of hearing:	10	05	2023
Date of pronouncement:	08	08	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals), Delhi-38 ('CIT(A)' in short) dated 12.12.2019 arising from the assessment order dated 30.03.2016 passed by the Assessing Officer (AO) under Section 201(1)/201(1A) of the Income Tax Act, 1961 (the Act) concerning AY 2009-10.

2. As per its grounds of appeal, the assessee has challenged the action of the Assessing Officer for treating the assessee as assessee in default towards failure to deduct and deposit tax as required under provisions of Chapter XVIIB of the Act towards amount as lease rent of Rs.15,81,849/- paid to Noida Authority in the Financial Year 2008-09 relevant to Assessment Year 2009-10

in question.

3. None appeared for the assessee despite repeated opportunities. The notice sent to the assessee at the address provided in appeal memo has returned back unserved. The assessee has remained indolent and has not shown any interest in defending the matter. Accordingly, the matter is proceeded *ex-parte*.

4. As per the case records, the assessee has relied upon the judgment of Hon'ble Delhi High Court in the case of *Rajesh Projects (India) Pvt. Ltd. vs. CIT (TDS)-II, (2017) 78 taxman.com 263 (Del)* to seek redressal from the Tribunal. In the absence of any assistance from the assessee, it appears difficult to ascertain exact facts in the context of which the judgment of the Honb'le Delhi High Court is urged to be applied.

5. In the interest of substantial justice, we remit the matter back to the file of the CIT(A) for fresh adjudication of the issue after giving proper opportunity to the assessee in this regard. It shall be open to the assessee to adduce such evidences and explanations as may be considered expedient to defend its case.

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

Order pronounced in the open Court on 08/08/2023

Sd/-

**[CHANDRA MOHAN GARG]
JUDICIAL MEMBER**

DATED: /08/2023

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**