

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC" NEW DELHI**

**SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER**

आ.अ.सं./I.T.A No.1546/Del/2022

निर्धारणवर्ष/Assessment Year: 2012-13

Rahish Pal Singh (through legal heir Premlata) Village-Mohammadpur, Gautam Budh Nagar, Uttar Pradesh.	बनाम Vs.	Income Tax Officer Ward 3(2), Gautam Budh Nagar.
PAN No. AYAPS7743N		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Mr. Mohit Kumar, Advocate
राजस्वकीओरसे /Revenue by	Shri Om Prakash, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	30.08.2023
उद्घोषणाकीतारीख/Pronouncement on	30.08.2023

**आदेश /O R D E R**

This appeal has been filed against the order of Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi dated 27.04.2022 for AY 2012-13.

2. At the very outset, I note that the Ld. Sr. DR, in all fairness, submitted that the Department has no serious objection if the matter is restored to the file of AO for re-framing of scrutiny assessment order.

3. On careful consideration of above submissions, we note that the AO passed *ex parte* order u/s 144 r.w.s. 147 of the I.T. Act, 1961 on 21.12.2019 and the Ld.CIT(A) also passed *ex parte* order on 27.04.2022. Thus, I have no hesitation to hold that the assessee has not provided due opportunity of hearing by the authorities below. Therefore, the matter is restored to the file of AO for afresh framing of reassessment order u/s 147/143(3) of the Act after allowing due opportunity of hearing to the assessee and without being influenced with the earlier assessment and first appellate order. Accordingly, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 30/08/2023

Sd/-  
(C.M. GARG)  
JUDICIAL MEMBER

Dated: 30.08.2023

\*Kavita Arora, Sr. P.S.

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT  
(DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi