

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'B' : NEW DELHI)
BEFORE SH. N.K.BILLAIYA, ACCOUNTANT MEMBER
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No. 1836/Del/2022
(Assessment Year : 2011-12)

Capital Bus Service Pvt. Ltd. Room No. 17, Vir Hakikat Roi ISBT Sarai kala Khan Hazrat Nizamuddin, Delhi PAN : AAACCO176G	Vs.	DCIT, Central Circle-31, New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Gurjeet Singh, CA
Revenue by	Sh.T. James Singson, CIT, DR

Date of hearing:	12.09.2023
Date of Pronouncement:	12.09.2023

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been preferred by the Assessee against the order dated 08.06.2022 of CIT (A)-30, New Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') arising out of an appeal before it

against the order dated 26.12.2018 passed u/s 143(3)/147 of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the DCIT, Circle-31, New Delhi (hereinafter referred as the Ld. AO).

2. Heard and perused the record.

3. At the time of hearing it came up that the assessee has raised a ground of not being given an adequate opportunity of hearing. Ld. DR has objected to the same citing the number of opportunities as mentioned by Id. CIT(A) on page no. 4 to 6. Notices are of the month of October to December, 2018 and are shown to be issued on the postal address of the assessee, however, thereafter Ld. CIT(A) kept the matter in abeyance and issued notice on 05.01.2021 and thereafter on 8 occasions on registered e mail address through ITBA, for which assessee claims that assessee was illiterate person and was not aware that notices can be served through e-mail it also comes up that thereafter Ld. CIT(A) relied judgment of Hon'ble Supreme Court in the case of Shri B.N.Bhattachaterjee and Another 118 ITR 461 and without discussing the merits of the case dismissed appeal.

4. The Bench is of considered opinion that Ld. CIT(A) has fallen in error in not giving adequate opportunity of hearing and has also failed to decide the issues on merits how to make any inquiry himself in regard to issues. When earlier notices were issued on postal address then issuing notice on email, does give reason for acceptance of the excuse of the assessee that he was not aware of notices served by email. Accordingly the ground no. 2 raised by the assessee is allowed and **the appeal is allowed for statistical purposes**. The assessee is given an opportunity to contest on merits before Ld. CIT(A). The issue is restored to the files of Ld. CIT(A) where assessee shall put in

appearance on 05.12.2023 without any further notices from Ld. CIT(A) and after giving opportunity of hearing, the Id. CIT(A) shall dispose of the issues on merits.

Order pronounced in the open court on 12th September, 2023.

**Sd/-
(N.K.BILLAIYA)
ACCOUNTANT MEMBER**

Date:- 12.09.2023

Binita, SR.P.S

Copy forwarded to:

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

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

AR, ITAT
New Delhi