

**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.545/DEL/2023
Assessment Year 2017-18

HPL India Ltd. 1/20, Asaf Ali Road, New Delhi.	Vs.	ITO Ward-11(1) New Delhi
TAN/PAN: AAACH1967L		
(Appellant)		(Respondent)

Appellant by:	Ms. Supriya Mehta, CA		
Respondent by:	Shri Vivek Kumar Upadhyay, Sr.DR		
Date of hearing:	31	07	2023
Date of pronouncement:	31	07	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)-National Faceless Appeal Centre (NFAC), Delhi ('CIT(A)' in short) dated 02.02.2023 arising from the assessment order dated 30.12.2019 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2017-18.

2. As per the grounds of appeal, the assessee has challenged the additions/disallowances carried out by the Assessing Officer and confirmed by the CIT(A) in an *ex-parte* order.

3. When the matter was called for hearing, the Id. counsel for the assessee submitted at the outset that the CIT(A) has disposed of the appeal *ex-parte* in violation of principles of natural justice and

therefore, the order required to be set aside with appropriate directions. The ld. counsel submitted that as per paragraph 3 of the first appellate order, certain notices for hearing were issued but served on the e-mail Ids of the employees of the assessee, namely, Shri S.C. Sharma and Shri Himanshu Srivastava. However, Shri Sharma had expired on 05.01.2022 and therefore, the assessee was not aware of the issuance of the notice by the first appellate authority. Another employee, Shri Srivastava who was an AGM Taxation and Internal Audit had also left the employment on 26.02.2020. On the last occasion, the notice was issued on 18.01.2023. The assessee responded to the aforesaid notice and sought adjournment upto 09.02.2023 on the ground that the concerned person handling the appellate matter is unavailable and shall resume office in the first week of February, 2023. In this backdrop, the ld. counsel pointed out that the CIT(A) has proceeded *ex-parte* without appreciating the factual circumstances and confirmed the action of the Assessing Officer without hearing the defense of the assessee. The ld. counsel thus submitted that in view of justifiable circumstances for non attendance, the order of the CIT(A) must be set aside to prevent the miscarriage of justice and the appeal of the assessee be remanded back for fresh adjudication by the CIT(A) in accordance with law.

4. The ld. DR for the Revenue did not express any opinion on the proposition made on behalf of the assessee but however submitted that it was duty of the assessee to attend the proceedings before the CIT(A) diligently and cannot take shelter of such plea towards non attendance.

5. We have heard the rival submissions.

6. The assessee in the instant case, to our mind, has demonstrated

the reasons for non attendance before the authorities below. The assessee has filed documentary evidences to support its case that initial three notices could not get attention of the assessee due to death of the employee / job left by the employee on whose e-mail Ids the notices were served. On the last occasion, the assessee has responded seeking 10 days adjournment but however the CIT(A) ignored the request and disposed of the appeal in the intervening period vide order dated 02.02.2023.

6.1 Under the circumstances, we find that reasonable cause exists in the instant case to demonstrate that non compliance of the notices by the CIT(A) for hearing are not deliberate. It is also simultaneously seen that assessee has attended before the Assessing Officer and the assessment was framed under Section 143(3) of the Act.

6.2 We also bear in mind that the act of non-attendance is detriment to the interest of assessee itself and no prudent man would act in such manner ordinarily. Guided by the principle of the objectivity, fairness and justice, we consider it just and proper to remit the matter back to the file of the CIT(A) to draw logical conclusion after giving reasonable opportunity to the assessee of being heard.

6.3 We thus set aside the order of the CIT(A) on equitable grounds as a fair opportunity to the assessee will conduce to the more effective administration of justice.

6.4 The CIT(A) shall adjudicate the appeal in accordance with law after taking into consideration the defense raised by the assessee if any. The assessee is cautioned to doubtfully comply with the notice of hearing.

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

Order dictated and pronounced in the open Court on 31/07/2023

Sd/-

**[CHANDRA MOHAN GARG]
JUDICIAL MEMBER**

DATED: **31/07/2023**

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**