

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'F' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No.2290/Del./2018
(ASSESSMENT YEAR : 2009-10)**

**ITA No.2291/Del./2018
(ASSESSMENT YEAR : 2010-11)**

**ITA No.2292/Del./2018
(ASSESSMENT YEAR : 2011-12)**

Velvet Apple Hotels P. Ltd.,
8, Under Hill Lane,
Civil Lines,
New Delhi – 110 054.

vs. Addl.CIT, Range 51,
New Delhi.

(PAN : AACCV8897K)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Nirbhay Mehta, Advocate
REVENUE BY : Shri P.N. Barnwal, CIT DR
Shri Vivek Vardhan, Sr. DR

Date of Hearing : 05.10.2023
Date of Order : 09.10.2023

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

These appeals filed by the assessee are directed against the order of
ld. CIT (Appeals)-41, New Delhi all dated 21.11.2016 for the Assessment
Years 2009-10, 2010-11 & 2011-12.

2. Grounds of appeal taken by the assessee read as under :-

“1. That the order passed under Section 272A(2)(k) of the Income Tax Act, 1961 dated 21.11.2016 is bad in law and on facts.

2. That the Id. CIT (A) has erred in confirming penalty amounting of Rs.9,84,300/- u/s 272(2)(k) of the Act without considering the fact that there was reasonable cause for non-furnishing or late furnishing of TDS statement for the impugned Assessment Year.

3. That the penalty of Rs.9,84,300/- levied by Id. AO has exceeded the amount of tax deducted of Rs.6,54,500/- as against the first provision of Sec. 272A(2)(k) of the Act.”

3. At the outset, Id. Counsel of the assessee submitted that the AO and Id. CIT (A) has passed an ex-parte order after noting that assessee did not appear despite notices. Id. Counsel of the assessee prayed that an opportunity may be given to the assessee to canvass the case properly before the AO. He undertook to cooperate at the level of AO.

3. Id. DR for the Revenue did not have any serious objection to this proposition.

4. Accordingly, in the interest of justice, we remit the issue to the file of AO. AO shall give an opportunity to the assessee of being heard and pass a speaking order on merits of the case.

5. In the result, these appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on this 9th day of October, 2023.

**Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

Dated the 9th day of October, 2023/TS

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-41, New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.