

IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "S.M.C." : DELHI]

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No.1857/Del/2023
निर्धारणवर्ष/Assessment Year: 2010-11

R. L. Agarwal, HUF, 123 - Nai Basti, Ghaziabad, Uttar Pradesh - 201 001.	<u>बनाम</u> Vs.	DCIT, Circle : 2, Ghaziabad.
PAN No. AADHR0579N		
अपीलार्थी /Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by :	Shri Gagan Kumar, Adv.; & Shri Varun Gandhi, Adv.;
राजस्वकीओरसे / Department by :	Shri Om Parkash, Sr. D. R.;

सुनवाईकीतारीख/ Date of hearing :	11/10/2023
उद्घोषणाकीतारीख/Pronouncement on :	17/10/2023

आदेश /O R D E R

PER C. N. PRASAD, J. M. :

1. This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals) [hereinafter referred to CIT

(Appeals)]/National Faceless Appeal Centre (NFAC) Delhi, dated 29.05.2023 for assessment year 2010-11.

2. In the grounds of appeal the assessee has raised several grounds on merits and also agitated the order of the Id. CIT (Appeals) in passing an ex-parte order without giving adequate opportunity of being heard to the assessee.

3. The Id. Counsel for the assessee, at the outset, submits that the appeal was posted for hearing on 23.05.2023. The assessee sought adjournment and in the portal it was also mentioned that the adjournment was sought up to 09th June, 2023. However, in the meantime the Id. CIT (Appeals)/NFAC passed order on 29.05.2023 dismissing the appeal of the assessee and sustaining the order of the Assessing Officer passed under section 143(3) of the Income Tax Act, 1961 (the Act). Therefore, the Id. Counsel submits that the appeal may be restored back to the file of the Id. CIT (Appeals) for disposing off the appeal after providing adequate opportunity of being heard to the assessee.

4. The Id. DR has no serious objection in restoring the appeal to the file of the Id. CIT (Appeals).

5. On hearing both the parties and perusing the order of the Id. CIT (Appeals) and the copy of snapshot of portal placed in the paper book and the adjournment letter of the assessee it is noticed that the assessee sought adjournment when the appeal was fixed for hearing on 23.05.2023 requesting for adjournment. The Income tax portal also refers to the adjournment letter of the assessee

and it was stated that the adjournment sought up to 9.06.2023. However, the Id. CIT (Appeals) by order dated 29.05.2023 disposed off the appeal of the assessee. I also notice that the Id. CIT (Appeals) dismissed the appeal of the assessee without passing a speaking order on merits of the addition/disallowance made in the assessment order. Therefore, in the interest of justice, this appeal is restored to the file of the Id. CIT (Appeals) who shall decide the appeal afresh after providing adequate opportunity of being heard to the assessee.

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

Order pronounced in the open court on : 17/10/2023.

Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

Dated : 17/10/2023.

MEHTA

Copy forwarded to :-

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

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	11.10.2023
Date on which the typed draft is placed before the dictating member	12.10.2023
Date on which the typed draft is placed before the other member	17.10.2023
Date on which the approved draft comes to the Sr. PS/ PS	17.10.2023
Date on which the fair order is placed before the dictating member for pronouncement	17.10.2023
Date on which the fair order comes back to the Sr. PS/ PS	17.10.2023
Date on which the final order is uploaded on the website	17.10.2023
Date on which the file goes to the Bench Clerk	17.10.2023
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	