

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No.4987/Del/2019
(Assessment Year : 2009-10)

Vantage Integrated Security Solutions Pvt. Ltd. B-11, Sec-07, Noida, UP PAN No. AAACU 1717 F (APPELLANT)	Vs.	ACIT Circle – 26(1) New Delhi (RESPONDENT)
---	-----	--

Assessee by	Shri Kamal Kishan Jetely, Adv. & Shri S. M. Manjar, Adv.
Revenue by	Shri Vivek Vardhan, Sr. D.R.

Date of hearing:	12.10.2023
Date of Pronouncement:	25.10.2023

PER SHAMIM YAHYA, AM :

This appeal filed by the assessee is directed against the order of Learned Commissioner of Income Tax (Appeals)-16, New Delhi dated 08.04.2019 pertaining to Assessment Year 2009-10.

2. Although the assessee has raised various grounds. At the outset, Learned Counsel for the assessee pressed Ground No.7, which reads as under:

7. *“That the Ld. CIT(A) has erred in upholding the assessment order, where the AO has grossly erred in passing the final assessment order on 05.12.2016 i.e. without passing an order (Interim Order), meeting the objections of the assessee to the validity of the proceedings. Hence, the assessment order framed is illegal and needs to be set aside.”*

3. At the outset, Learned Counsel for the assessee submitted that assessee has filed detailed objection to the notice of reopening to the Assessing Officer but the Assessing Officer has not disposed off the said objection by a speaking order. The assessee also raised this issue before Learned CIT(A), however, Learned CIT(A) was not convinced. He rejected the assessee's submissions, which reads as under:

“An examination of the records shows that the reasons for re-opening the case have been brought to the knowledge of the appellant and cognizance of his submissions in this regard has been taken. So, the necessity of a speaking order is done away with. Here, the order of the Apex Court in the case of Home Finders Housing Ltd 256 Taxman 59 is also pertinent which clearly lays down the principle that the failure of the AO to dispose off objections to reasons recorded does not make assessment void ab initio. Thus, this claim of the appellant also bites the dust.”

4. Referring to the above, Learned Counsel for the assessee submitted that the above is contrary to the Supreme Court decision in the case of GKN Driveshafts (India) Ltd. vs. ITO [2003] 259 ITR 19. He further submitted that the case law of Apex Court referred by Learned CIT(A) above does not support the case of Revenue. Rather in the said case also matter was remanded to dispose off the objection by a speaking order. Hence, he prayed that issue may be remanded back to the file of AO to dispose off the objection by a speaking order.

5. Upon careful consideration, we find ourselves in agreement with the contention of Learned Counsel of the assessee. Assessee has prayed that the matter may be remanded back to the file of AO to dispose off the objection by a speaking order.

6. Learned DR did not object to the above proposition.
7. Accordingly, in the interest of justice, we remit the issue to the file of Assessing Officer. The Assessing Officer shall dispose off the objection of the assessee by a speaking order and thereafter, decide as per law.
8. In the result, appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 25.10.2023

Sd/-

**(YOGESH KUMAR US)
JUDICIAL MEMBER**

Date:- 25.10.2023

*Priti Yadav, Sr. PS**

Copy forwarded to:

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

Sd/-

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR
ITAT NEW DELHI