

**THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'H' NEW DELHI**

**BEFORE SHRI G.S. PANNU, VICE-PRESIDENT AND SHRI
ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1023/Del/2021
Assessment Year: 2011-12

Vikunj Real Estate Pvt. Ltd., B-1, Bareja Sadan, Badarpur, Delhi-1100 44	Vs.	Principal CIT, New Delhi
PAN : AACCV2351A		
(Appellant)		(Respondent)

Assessee by	Shri Shyam Sundar Mangla, CA
Department by	Ms. Sapna Bhatia, CIT-DR

Date of hearing	23.01.2024
Date of pronouncement	29.02.2024

ORDER

PER ANUBHAV SHARMA: JUDICIAL MEMBER:

This appeal has been preferred by the Assessee against the order dated 31.03.2021 of Principal Commissioner of Income-Tax, Delhi-1100 07 (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Appeal No. ITBA/REV/F/REV5/2020-

21/1032005199 passed under Section 143(3) r.w.s. 147 of Income-Tax Act, 1961 (hereinafter referred as 'the Act').

2. Heard and perused the record. At outset, in light of reasons cited, we condone delay in filing of appeal.

3. At the time of hearing, it comes up that learned PCIT observes in his impugned order under Section 263 of the Act that assessee/appellant had failed to respond to his notice under Section 263 of the Act and accordingly had passed the impugned order as follows:

“10. In these facts and circumstances, I hold that the assessment order in this case is passed by Assessing Officer without making inquiries or verification which should have been made, and the order is passed allowing a relief without inquiring into the claim made in the Income Tax Return, i.e. claim of TDS without verifying whether the Order is erroneous. Had the inquiries been conducted, it would have made a legally sustainable tax implication in this case on account of the income being offered for tax against the TDS claimed, and therefore the order is prejudicial to the interest of the revenue as well.”

4. Here, before the Tribunal, the assessee has submitted that there was no notice to the assessee. We find that in impugned order, there are no particulars of mode of service. Only one notice seems to have been issued. How it was served is not coming up.

5. In the light of submissions as made, we are of the considered view that assessee deserves an opportunity to contest on merits. The appeal is allowed for statistical purposes and the issue is restored before the learned PCIT to decide afresh after giving notice on the postal address and through ITBA.

6. In the result, the appeal is allowed for statistical purposes .

Order pronounced in the open court on 29 /02/2024.

Sd/-
(G.S. PANNU)
VICE-PRESIDENT

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 29th February, 2024.
Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi