

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

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No.3885/Del/2023
Assessment Year: 2017-18

NYX Project Ventures Pvt. Ltd., S-533, G/F, Greater Kailash II, New Delhi	Vs.	ACIT, Circle-18(2), New Delhi
PAN :AADCN6865C		
(Appellant)		(Respondent)

Assessee by	Sh. Vinay Chawla, Advocate
Department by	Sh. Rajesh Kumar Dhaneshta, Sr. DR

Date of hearing	25.04.2024
Date of pronouncement	25.04.2024

ORDER

PER SAKTIJIT DEY, VICE-PRESIDENT

This is an appeal by the assessee against order dated 30.11.2023 passed by National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-18.

2. The basic grievance of the assessee is against ex-parte disposal of its appeal by the First Appellate Authority without providing due and reasonable opportunity of being heard.

3. We have considered rival submissions and perused the materials on record. Before us, learned counsel appearing for the assessee submitted that, though, notice of hearing issued by the first appellate authority was received by the assessee, however, due to illness of the counsel, proper representation could not be made resulting in ex-parte disposal of the appeal and confirmation of the addition. He submitted, the assessee has a strong prima facie case on merits, as, by completely misconceiving the facts the Assessing Officer has made the addition on account of scrap sales, though, the assessee has offered such income in its profit and loss account as well as return of income. Thus, it was submitted, the matter may be restored back to the Assessing Officer for fresh adjudication.

4. Learned Departmental Representative did not express any objection with regard to restoration of the issues to the Assessing Officer.

5. We have considered rival submissions and perused the materials on record. Undisputedly, the first appellate authority has proceeded to dispose of assessee's appeal ex-parte alleging non-compliance. Before us, learned counsel appearing for the

assessee has furnished an affidavit stating that due to his illness he could not appear before the first appellate authority on the date of hearing.

6. Considering the fact that the assessee was deprived of representing its case before learned first appellate authority for genuine reasons, we are inclined to set aside the impugned order of learned first appellate authority and restore the issue to the file of Assessing Officer for fresh adjudication, after providing due and reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open court on 25th April, 2024

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 25th April, 2024.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi