

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH' SMC': NEW DELHI
BEFORE,
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.3047/Del/2023
(ASSESSMENT YEAR 2009-10)**

Vikas Sharma 16-A/1102, Vasundhara, Ghaziabnad, Uttar Pradesh PAN-AVJPS8784R	Vs.	Income Tax Officer Ward-1(5), Ghaziabad Uttar Pradesh
(Appellant)		(Respondent)

**ITA No.3048/Del/2023
(ASSESSMENT YEAR 2009-10)**

Vikas Sharma 16-A/1102, Vasundhara, Ghaziabnad, Uttar Pradesh PAN-AVJPS8784R	Vs.	Income Tax Officer Ward-1(5), Ghaziabad Uttar Pradesh
(Appellant)		(Respondent)

Appellant by	Shri Tarun Chanana, Adv
Respondent by	Shri Om Prakash, Sr. DR

Date of Hearing	09/05/2024
Date of Pronouncement	10/05/2024

ORDER

PER YOGESH KUMAR U.S.JM:

Both the appeals are filed by the Assessee against the order of National Faceless Appeal Centre, Delhi ["NFAC" for short], dated 28/08/2023 for the Assessment Year 2009-10 wherein the Ld.

CIT(A) has confirmed the Assessment Order and the order of the penalty imposed by the A.O.

ITA No.3047/Del/2023 (Quantum Appeal)

2. The Ld. Counsel for the assessee submitted that both the assessment order and the order of the CIT(A) were passed ex-parte without giving opportunity of being heard to the assessee, therefore, sought for remanding the matter to the file of the A.O. for fresh consideration.

3. The Ld. Departmental Representative relying on the order of the Lower Authorities sought for dismissal of the Appeal.

4. We have heard both the parties and perused the material available on record. Considering the fact that both the A.O. as well as CIT(A) have passed orders ex-parte without hearing the assessee, we are of the opinion that if an opportunity of being heard is given to the assessee, the substantial justice would be rendered. Therefore, we set aside the impugned order of the A.O. as well as CIT(A) and remand the matter to the file of the A.O. for framing the assessment afresh after hearing the assessee in accordance with

law. The assessee is also directed to fully cooperate with the assessment proceeding. Ordered accordingly.

ITA No.3048/Del/2023 (Penalty Appeal)

5. In the quantum Appeal in ITA No. 3047/Del/2023, we have set aside the assessment order and the order of the Ld. CIT(A) and remanded the matter to the file of A.O. for framing the assessment afresh, therefore, the penalty order passed thereon does not survive accordingly, we delete the impugned penalty. Nevertheless, the A.O. is at liberty to initiate penalty proceedings in accordance with law if he makes the addition while framing the fresh assessment. Ordered accordingly.

6. In the result, Appeal in ITA No. 3047/Del/2023 and 3048/Del/2023 are partly allowed for statistical purpose.

Order pronounced in open Court on 10th MAY, 2024

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 10/05/2024

R.N, Sr.ps

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI