

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

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER AND
SH. NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**I.T.A. No. 475/Del/2024
(Assessment Year : 2009-10)**

K.S. Softnet Solutions Pvt. Ltd., E-1/61, Jaitpur Extension, Ismailpur Road, Badarpur, New Delhi-110 044	Vs.	ACIT Circle -14(1) New Delhi-110 002
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PAN: AABCK 8465 F

(Appellant) .. (Respondent)

Appellant by	:	Shri Abhinav Jain, Adv. Shri Kartikeya Tiwari, Adv.
Respondent by	:	Shri Sandeep Kr. Mishra, Sr. D.R.

Date of Hearing	08.05.2024
Date of Pronouncement	15.05.2024

ORDER

PER MS. MADHUMITA ROY – JUDICIAL MEMBER :

The instant appeal filed by the assessee is directed against the order dated 10.01.2024 passed by the Commissioner of Income Tax (Appeals) - New Delhi under section 250 of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') arising out of the assessment order passed under Section 143(3) r.w.s 147 of the Act for the Assessment Year (A.Y.) 2009-10.

2. At the time of hearing of the instant appeal, Learned Counsel appearing for the assessee submitted before us that the Learned CIT(A) though fixed the matter for four occasions, the assessee could not appear hence, the matter was ultimately, finalized *ex parte* confirming the order of addition made by the AO. However, the Learned CIT(A) has not passed the order on merit. The assessee, therefore, has not been able to represent its case before the Learned CIT(A) in its proper prospective. In that view of the matter, he prays for setting aside the issue to the file of the Learned AO for deciding the issue afresh. Such prayer has not been objected by the Learned DR with all his fairness.

3. Having heard the Learned Counsel appearing for the parties, having regard to the facts and circumstances of the case, we are of the considered opinion that in order to prevent the miscarriage of justice, the assessee be given a further opportunity of being heard by the authorities below. Thus, we set aside the issue to the file of the Learned AO for deciding the same afresh upon granting an opportunity of being heard to the assessee and upon considering the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the matter. We also make it clear that in the event, the assessee does not cooperate with the Learned AO, the said authority would be at liberty to proceed and finalize the matter strictly in accordance with law.

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4. In the result, assessee's appeal, therefore, is allowed for statistical purposes.

This Order pronounced in Open Court on 15/05/2024

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

Dated 15/05/2024

Priti Yadav, Sr.PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI