

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 469/Del/2024
(Assessment Year: 2010-11)**

Shiva Commodities Pvt. Ltd, Vs. CIT(A)-26,
2/3A, Aravali View Rail Vihar, New Delhi
Sector-56, Gurgaon

(Appellant)

(Respondent)

PAN: AAICS6621G

Assessee by : Shri Yudhister Mehtani, CA
Revenue by: Shri Mritunjay Prasad Dwivedi, Sr. DR

Date of Hearing 23/10/2024
Date of pronouncement 26/11/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.469/Del/2024 for AY 2010-11, arises out of the order of the Commissioner of Income Tax (Appeals)-37, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 26.12.2017 by the Assessing Officer, ITO, Ward-23(2), New Delhi (hereinafter referred to as 'Id. AO').

2. At the outset, we find that the order of Id CIT(A) was passed exparte without considering the submissions of the assessee. The Id AR before us had placed on record an affidavit from the Director of the assessee company explaining the reason for non-appearance. This affidavit is also supported by an affidavit from the Advocate who was engaged to represent before the Id CIT(A) and the said Advocate had stated in the affidavit that due to his pre-occupations, he could not be

present before the Id CIT(A) for arguing the appeal. Hence it is conclusively proved that the Id CIT(A) had disposed of the appeal exparte without deciding the grounds of merits, thereby resulting in violation of principles of natural justice. Hence we deem it fit and appropriate, in the interest of justice and fair play, to restore this appeal to the file of Id CIT(A) for denovo adjudication in accordance with law. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is at liberty to furnish fresh evidences, if any, in support of its contentions. The assessee is also directed to co-operate with the Id CIT(A) by not taking adjournments except due to bonafide or exceptional circumstances. With these directions, the appeal is restored to Id CIT(A) and grounds raised by the assessee are allowed for statistical purposes.

3. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 26/11/2024.

-Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 26/11/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi