

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

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT  
AND  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.1465/Del/2021**  
**(ASSESSMENT YEAR 2011-12)**

Sh. Anil Kumar Sondhi 18, UdyogVihar, Phase-VI, Sector-37, Gurugram-122001, Haryana. PAN:AAOPS3222J <b>(Appellant)</b>	Vs.	Sh. Peeyush Jain, CIT(A)-31       <b>(Respondent)</b>
------------------------------------------------------------------------------------------------------------------------------------------	-----	-------------------------------------------------------------------------------

Assessee by	Sh. Upvan Gupta, Adv.
Department by	Shri Yogesh Kumar Nayyar, Sr. DR
Date of Hearing	11/12/2024
Date of Pronouncement	27/12/2024

**ORDER**

**PER BENCH:**

This appeal by assessee is arising out of the order of Learned Commissioner of Income Tax (Appeals)-31, New Delhi in appeal No.10128/17-18/174/14-15 vide order dated 27/08/2018. Assessment was completed by Asst. Commissioner of Income Tax, Circle-23(1), New Delhi for Asst. Year 2011-12 u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') vide his order dated 30/03/2014.

2. At the outset, Ld. Counsel for the assessee drew our attention to first ground of appeal that the CIT(A) erred in not giving proper opportunity of being heard to the assessee, which resulted in violation of principal of natural justice. The assessee has raised the following ground No.1 only:

*“1. That in the facts and circumstances of the Appellant Assessee's case Ld. CIT(A) erred in not giving proper opportunity of being heard which resulted in violation of principal of natural justice. The Appeal has been decided on ex- parte basis.”*

3. In view of the above ground, Ld. Counsel for the assessee stated that this appeal was transferred from the office of Ld. CIT(A)-10, New Delhi by the order of PCIT vide order No. F. No. Addl. CIT/(Hqr.)/Coord)/CAP/Rationa./CIT(A)/2016-17/8339 dated 31/03/2017 to the CIT(A)-31, New Delhi. Ld. Counsel for the assessee drew our attention to para 3.1 of Ld. CIT(A) order and stated that on 22/03/2017, the assessee asked for adjournment which is noted by Ld. CIT(A). He stated that thereafter the Ld. CIT(A) issued three notices fixing the same for three various dates, which were never received by assessee and finally CIT(A) passed the appellate order on 27/08/2018. When query was put to Ld. Counsel for assessee, he stated that the Ld. CIT(A) has fixed the appeal thrice after transfer, he was not present and it is not practicable that the assessee is not aware about the proceedings. Ld. Counsel for the assessee stated that the order of the CIT(A) is *ex-parte* and non-speaking order. CIT(A) has reproduced the

grounds of appeal and paras of AO's order in his entire appellate order and grounds of appeal. He drew our attention to the entire order of the CIT(A) for this purposes.

4. On the other hand, Ld. Sr. DR could not controvert the facts that the order of CIT(A) is totally non speaking order.

5. We have heard the rival contention on the issue of violation of principle of natural justice and *ex-parte* order passed by Ld. CIT(A). We have gone through the orders of Ld. CIT(A) and noticed that the CIT(A) has tried to reproduce the assessment order and similar finding is there but order of CIT(A) does not seem to be seen speaking order. Practically it is dismissed relying on AO's order. It is also a fact that CIT(A) allowed three opportunities to assessee i.e., by issue of notice dated 05/09/2017, 16/11/2017 and 07/08/2018 fixing case for 26/09/2017, 12/12/2017 and 17/08/2018, which remained un-complied. Although it is the duty of CIT(A) to pass order on merits even though order can be passed in absence of assessee but it look likes that in the present case that this practically dismissal for default as there is no speaking order. Fault lies on both sides and, hence we set aside this order of CIT(A) and remand the matter back to the file of CIT(A) for fresh adjudication.

6. Here since the CIT(A) also fixed this appeal for three dates, which remained non-complied, and hence, we feel that this is a fit case for levy of costs for recalling of order and, accordingly, we levy

of Rs.25,000/- for which, Ld. Counsel for the assessee agreed. This costs will be paid by assessee to legal aid authority, High Court of Delhi on or before 31<sup>st</sup> January, 2025. On showing the receipt to CIT(A), the CIT(A) will fix the appeal for hearing and assessee will comply with the notice as and when he is called for hearing. In term of the above, the order of CIT(A) is set aside and appeal of the assessee is allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 27<sup>th</sup> December, 2024.

Sd/-

**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Sd/-

**(MAHAVIR SINGH)**  
**VICE PRESIDENT**

Dated: 27/12/2024

*Pk/sps*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI