

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

**BEFORE  
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.4411/Del/2019  
(ASSESSMENT YEAR 2015-16)

M/s Unitech Holdings Ltd., Basement-6, Community Centre, Saket, Delhi-110017. PAN-AAACU0237C	Vs.	Dy. CIT, Circle-27(1), New Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	None
Department by	Shri Surender Pal, CIT-DR
Date of Hearing	17/04/2025
Date of Pronouncement	17/04/2025

**ORDER**

**PER MANISH AGARWAL, AM:**

This is an appeal filed by the assessee against the order of the ld. Commissioner of Income Tax (Appeals) [CIT(A) in short] -9, New Delhi, dated 18.03.2019 passed in Appeal No. 44/17-18 for Assessment Year 2015-16.

2. None appeared for the assessee. Since it is very old appeal, and after considering the request of the revenue of early disposal of appeal, we proceed to decide the appeal of the assessee on the basis of material available on record and after hearing the ld. CIT DR.

3. Ld. CIT DR vehemently supported the order of the CIT(A) and stated that the assessee has failed to deposit the admitted tax, thus the appeal is liable to be dismissed as non-maintainable.

4. From the perusal of the appellate order, it is seen that the appeal of the assessee is not admitted for non-payment of admitted tax though the assessee had declared loss in the return of income filed. Since the ld. CIT(A) has dismissed the appeal of the assessee *in limine* thus we first decide the issue of maintainability of the appeal of the assessee.

5. So far as the non-maintainability of assessee's appeal on account of non-payment of admitted tax, we find that the ld. CIT(A) invoked the provisions of section 249(4)(a) of the Act which reads as under:

*(4) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,*

*(a) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or*

6. Admittedly, as per section 249(4)(a) of the Act, in a case where return of income has been filed by the assessee, then the appeal will be maintainable before the CIT(Appeals) only if the admitted tax was paid. As per the computation of income done by the AO in para 6 of the assessment order, it is seen that the AO himself admitted the fact that the assessee has declared loss of Rs. 83,78,82,467/- and after reducing this amount of loss out of the total additions made at Rs. 915,22,82,921/-, the income of the assessee is assessed at Rs.

831,44,00,454/- . It appears that the ld. CIT(A) has failed to consider this fact.

7. In view of these facts, we are of the opinion that the view taken by the CIT(Appeals) while dismissing the appeal of the assessee as not maintainable for the sole reason of non-compliance of the mandatory condition as contemplated in Clause (a) of sub-section (4) of Section 249 of the Act is not correct.

8. Accordingly, in view of above discussion, we remand back the matter to the file of ld. CIT(A) with a direction to admit the appeal of the assessee. Since the ld. CIT(A) has not decided the appeal of the assessee on merits, he is further directed to decide the appeal of the assessee on merits as per law. The CIT(A) is also directed to provide reasonable and sufficient opportunity of being heard to the assessee.

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

Order pronounced in open court on 17.04.2025.

Sd/-

**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 22.04.2025

PK/PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT

Sd/-

**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI