

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC-1', NEW DELHI**

Before Sh. N. K. Saini, Accountant Member

ITA No. 3484/Del/2015 : Asstt. Year : 2009-10

Sh. P K Build Tech Pvt. Ltd., B-47, Sector-51, Noida-201301, U.P.	Vs	Income Tax Officer, Ward-14(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AADCP2286K		

Assessee by : None

Revenue by : Ms. Anima Barnwal, Sr. DR

Date of Hearing : 26.07.2016	Date of Pronouncement : 26.07.2016
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ORDER

This is an appeal by the assessee against the order dated 31.12.2013 of ld. CIT(A)-XVII, Delhi.

2. In this appeal the assessee has raised as many as 8 grounds and the Ground No. 2 reads as under:

“1. On facts and in the circumstances of the case, the ld. CIT(A) has erred in passing the order without giving proper opportunity of being heard to the appellant and thus violated the principle of natural justice.”

3. From the above ground, it is clear that the grievance of the assessee relates to the passing of the impugned order by the ld. CIT(A) without giving proper opportunity of being heard to the assessee. During

the course of hearing nobody was present on behalf of the assessee, therefore, the appeal is disposed off *ex-parte* after hearing the Id. Senior DR on merit.

4. In the present case, the Id. CIT(A) observed that the various notices were issued to the assessee, however, the assessee did not attend and complied with the notices issued. He, therefore, proceeded *ex-parte* and disposed off the appeal of the assessee. The Id. DR supported the action of the Id. CIT(A) in deciding the appeal *ex-parte* and submitted that there was no alternative except to decide the appeal *ex-parte* because the assessee did not appear on the date fixed for hearing. She also submitted that the Id. CIT(A) disposed off the appeal of the assessee on merit. Therefore, the impugned order may be affirmed.

4. I have considered the submissions of the Id. Senior DR and perused the material available on the record. In the present case, it is noticed that the Id. CIT(A) although mentioned that various notices were issued to the assessee, however, nowhere he stated that the notice issued for hearing of the case was served upon the assessee. It is well settled that nobody should be condemned unheard as per *maxim "audi alteram partem"*. I, therefore, deem it appropriate to set aside this case back to the file of the Id. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

(Order Pronounced in the Court on 26/07/2016)

Sd/-
(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 26/07/2016

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR