

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

Before Sh. N. K. Saini, Accountant Member

ITA No. 5836/Del/2016 : Asstt. Year : 2008-09

Pramod Kumar Singh, Flat No. B-4, Tower-2, New Moti Bagh, New Delhi-110023	Vs	Dy. Commissioner of Income Tax, Circle-65(1), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AERPS3870D		

Assessee by : None

Revenue by : Sh. Amrit Lal, Sr. DR

Date of Hearing : 15.05.2017	Date of Pronouncement : 15.05.2017
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ORDER

This is an appeal by the assessee against the order dated 27.10.2014 of Id. CIT(A)-XVII, Delhi.

2. Following grounds have been raised in this appeal:

“1). Ld. A.O. was not justified in law and in facts while making this addition of Rs. 6,00,000/- under the head Capital Gains;

2). Ld. A.O. took a very narrow view of the sale agreements filed with his record, suitable to his view point without addressing the real context of the agreement and sales transaction;

3). Ld. A.O. was failed to appreciate the fact that Assessee is a senior officer of Competition Commission of India, accepted whole consideration

through cheque only and can never even think of camouflage/ hiding the transaction;

4). Ld. A.O. examined each and every transaction in the bank statement of the assessee from income point of view, but nothing found as hidden/camouflage;

5). Ld. A.O.'s order is bad in law and same should be cancelled for sake of justice.

6). Delay in filing this appeal against the order of Commissioner of Income Tax (Appeals)-XVM may please be condoned subject to the adjudication of petition for delay condone filed separately”

3. During the course of hearing nobody was present on behalf of the assessee neither any adjournment was sought. I, therefore, proceeded *ex-parte* and the appeal is decided after hearing the ld. DR. It is noticed from the impugned order that the ld. CIT(A) passed the order *ex-parte* without hearing the assessee. The ld. CIT(A) mentioned that the notice for hearing was issued on 09.10.2014, fixing the case for hearing on 21.10.2014. But the assessee did not appear for the hearing. He nowhere stated that the notice of hearing was served upon the assessee.

4. It is well settled that nobody should be condemned unheard as per the *maxim* “*audi alteram partem*”. I, therefore, keeping in view the principles of natural justice, deem it appropriate to set aside this issue back to the file of the ld. 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 15/05/2017)

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

Dated: 15/05/2017

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR