

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH - 'F' NEW DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI , ACCOUNTANT MEMBER

ITA Nos. 274,275/Del/2010  
ASSESSMENT YEAR : 1991-92

Nobo Shoe Co. Pvt. Ltd. C-161, Anand Vihar New Delhi -110 092 PAN AABCN3344A	Vs.	ITO Ward-13 (3) New Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by :	Shri M.P. Rastogi, Advocate
Department by:	Shri F.R. Meena, Sr. DR
Date of Hearing	18//05/2017
Date of pronouncement	06/06/2017

**Per BHAVNESH SAINI, Judicial Member**

**ORDER**

Both the appeals by assessee are directed against different years of Ld. CIT(A) XVI New Delhi dated 6.11.2009 for asstt. Year 1991-92 and dated 9.11.2009 for asstt. Year 1991-92 challenging the levy of penalty u/s 271(1)(C) of the I.T. Act.

2. Brief facts of the case are that originally assessment was completed u/s 143(3) on 29<sup>th</sup> March, 1994. During the course of that assessment proceedings , AO pointed out several defects in the books of accounts maintained by the assessee and

accordingly same were rejected. Before the Ld. CIT(A), assessee took the plea of labour unrest due to which books of accounts could not be produced before AO but the Ld. CIT(A) rejected the contention of the assessee. The matter travelled to ITAT vide its order dated 3<sup>rd</sup> July, 2006 restored the matter back to the file of the AO with direction to decide the matter afresh with direction to assessee to produce the books of accounts. The AO in view of the above directions of the Tribunal taken up the assessment proceedings afresh . However the assessee did not produce the books of accounts. Therefore income was assessed at Rs. 3,48,530/-. Assessee filed appeal before Ld. CIT(A). Ld. CIT(A) noted that the matter is adjourned many times on the request of assessee but assessee failed to comply with the directions of the Tribunal. Therefore, it was noted that assessee is not interested in pursuing the appeal. Therefore appeal of assessee is dismissed.

3. Same is the position in the penalty matter and in default of the assessee Ld. CIT(A) similarly noted that assessee is not interested in pursuing the appeal. Therefore levy of penalty was confirmed and appeal of assessee has been dismissed.

4. After considering rival submissions we are of the view matter requires re consideration at the level of the Ld. CIT(A). According to section 250 (6) of the I.T. Act, Ld. CIT(A) is required to pass reasoned order even if assessee appears before him or not. May be the conduct of the assessee is not proper in not cooperating the Ld. CIT(A) but Ld. CIT(A) is required to pass the order in accordance with law giving reasons for decisions in the appellate order. In this view of this matter, we set aside both the impugned orders and restore both the appeals to the file of the Ld. CIT(A) with direction to redécide both the appeals of the assessee in accordance with law by giving reasonable sufficient opportunity of being heard to the assessee and AO. Ld. CIT(A) shall pass the reasoned order in accordance with law. Both the appeals of assessee are allowed for statistical purposes.

5. In the result both the appeal of assessee are allowed for statistical purposes.

Pronounced in the Open Court.

Sd/-  
**(PRASHANT MAHARISHI)**  
**ACCOUNTANT MEMBER**

sd/-  
**( BHAVNESH SAINI )**  
**JUDICIAL MEMBER**

Dated: 06.6.2017

***\*Veena\****

Copy forwarded to: -

1. Appellant
2. Respondent
3. Principal CIT
4. CIT(A)
5. DR, ITAT

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By Order,

ASSISTANT REGISTRAR