

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

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA No. 973/Del/2017
ASSESSMENT YEAR : 2007-08

Om Prakash Sangwan 63, Rama Road New Delhi – 110 015 PAN AAZPS5602F	Vs.	ITO Ward-50(2) New Delhi
(Appellant)		(Respondent)

Assessee by :	Shri Arvind Kumar, Advocate
Department by:	Ms. Badobani, Sr. DR
Date of Hearing	24/05/2017
Date of pronouncement	25/05/2017

Per BHAVNESH SAINI, Judicial Member

ORDER

This appeal by assessee has been directed against the order of Ld. CIT(A) – 17, New Delhi dated 18th November, 2016 for assessment year 2007-08.

2. In this case the Assessing Officer noted large number of date of hearing in which there were no compliance by the assessee. The Assessing Officer therefore passed the ex parte order u/s 144 / 147 of the I.T. Act by disallowing the deduction u/s 80IC and addition

made on account of interest and computed the income at Rs. 3,25,800/-. The position is similar before Ld. CIT(A) because neither the assessee nor the counsel for assessee appeared before Ld. CIT(A) on any dates of hearing. Ld. CIT(A) accordingly dismissed the appeal of assessee.

3. After hearing rival contentions, I am of the view the matter requires reconsideration at the level of the Ld. CIT(A). Ld. Counsel for assessee contended that on the same issue of deduction u/s 80IC the appeal of assessee for assessment year 2008-09 is pending before the Tribunal. He has further submitted that in assessment year 2005-06 and 2010-11 the Tribunal restored the matter back to the file of Ld. CIT(A) for passing the order afresh holding that assessee was prevented by sufficient cause from appearing before the Ld. CIT(A). Copy of the order dated 22nd September, 2016 is placed on record. However Ld. Counsel for assessee was not able to explain as to what was reasonable cause for not appearing before Assessing Officer and CIT(A) in assessment year under appeal. He has merely contended that the Chartered Accountant of the assessee did not appear before the authorities below. However for the professional misconduct, no action has been taken against him. Ld. Counsel for assessee submitted that in the interest of justice matter may be

remanded back to the file of Ld. CIT(A) for decision afresh. Ld. DR objected the contention of Ld. Counsel for assessee because assessee has been deliberately not appearing before the authorities below and submit that in case the matter is restored to the Ld. CIT(A) that cost may be imposed upon assessee.

4. Considering the facts of the case in the light of the submissions of the parties and the fact that in earlier years the matter was remanded to the file of Ld. CIT(A) by the Tribunal however, on the reason that there was sufficient cause for not appearing before Ld. CIT(A) and that other appeal is pending before the Tribunal, may be reason for restoring the matter to the file of Ld. CIT(A), however subject to cost because the assessee has been prolonging the decision making process deliberately. Considering the above discussion and that the assessee did not appear before Assessing Officer and Ld. CIT(A) deliberately and that Ld. CIT(A) has also not given detailed reason for decision in the matter, I set aside the order of the Ld. CIT(A) and restore the appeal of assessee to his file with direction to re-decide the appeal of assessee by giving reasonable sufficient opportunity of being heard to the assessee, subject to cost of Rs. 5,000/- which assessee shall pay to the revenue department within one month from the date of the order. It is

clarified in case the cost is not paid, revenue is at liberty to recover the cost from the assessee as arrear of tax.

5. In the result appeal of assessee is allowed for statistical purposes subject to cost as indicated above.

Pronounced in the Open Court.

Sd/-

**(BHAVNESH SAINI)
JUDICIAL MEMBER**

Dated: 25/05/2017

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Copy forwarded to: -

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

TRUE COPY

By Order,

ASSISTANT REGISTRAR