

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "SMC-1" BENCH: NEW DELHI**

**(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.1503/Del/2020  
Assessment Year : 2010-11**

Pragya Mudgal, Tower-B6, Flat No.-G-003, Gardenia Glory, Sector-46, Noida, Uttar Pradesh-201301. PAN-AMPPM6663A	vs	ITO, Ward-2(4), Noida.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>		Ms.Pragya Mudgal, Assessee
<b>Respondent by</b>		Sh.Gaurav Pundir, Sr. DR
<b>Date of Hearing</b>		19.07.2021
<b>Date of Pronouncement</b>		23.07.2021

**ORDER**

**PER KUL BHARAT, JM :**

This appeal filed by the assessee for the assessment year 2010-11 is directed against the order of Ld. CIT(A)-1, Noida dated 28.09.2018. The assessee has raised following grounds of appeal:-

1. *"That the Order is Void, Illegal, Arbitrary and against the Principles of Natural Justice.*
2. *That no reasonable opportunity has been provided before deciding the case.*
3. *That the Notice dated 10109/2018 was issued to the Appellant. However, the request for adjournment of the case was not accepted.*
4. *That if the Appellant has not received or has not been served, the Tribunal may restore the matter and at least a chance of hearing should be provided as held in case of Meghji Kanji Patel Vis Kundanmal Chamanlal AIR 1968 Bom. 387 the honorable*

*Bombay High Court held that if where an affidavit is filed the same has to be accepted.*

5. *That the Appellant has paid the Appellant Authority the fees as prescribed as she was interested in perusing the case.*
6. *Since no reasonable opportunity of being heard has been provided to the Appellant, it cannot be said that the facts of the case have been duly examined. It has been clearly held in case of Gujarat Themis Biosyn Ltd. Vis Joint Commissioner of Income Tax on 2Uth August 1999 that the order has to be passed U/s 250(6) of the Income Tax Act, 1961 after considering all the facts of the case clearly.*
7. *That the Appellant reserves the right to take any other ground of appeal at the time of hearing.”*

2. Facts giving rise to the present appeal are that the case of the assessee was re-opened for assessment u/s 147 r.w.s. 144 of the Income Tax Act, 1961 (“the Act”) and the assessment was framed vide order dated 31.10.2017. The Assessing Officer had computed the total income of the assessee at Rs.2,52,560/-. The assessment was passed ex-parte to the assessee.

3. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A) who dismissed the appeal of the assessee on the ground that the appeal cannot be admitted without payment of necessary fee in terms of provision of section 249(1)(a) of the Act.

4. Aggrieved against this, the assessee preferred present appeal before this Tribunal.

5. The assessee appeared in person and submitted that the necessary fee was duly deposited. The assessee also undertook to furnish the requisite details before Ld. CIT(A), if the matter is remanded to Ld. CIT(A) for decision afresh.

6. In the contrary, Ld. Sr. DR opposed these submissions and supported the order of the authorities below.

7. I have heard contentions of both the parties and perused the material available on record. Considering the submissions of the assessee that necessary fee was deposited, I therefore, deem it proper to set aside the impugned order in the interest of principles of natural justice and restore the grounds of appeal to Ld.CIT(A) to decide afresh. The assessee is hereby directed not to seek adjournment before Ld. CIT(A) except otherwise prevented by extreme exigencies. Thus, grounds raised by the assessee in this appeal are allowed for statistical purposes.

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

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 23<sup>rd</sup> July, 2021.

**Sd/-**

**(KUL BHARAT)**  
**JUDICIAL MEMBER**

*\*Amit Kumar\**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI