

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

**BEFORE,  
SMT. DIVA SINGH, JUDICIAL MEMBER**

**I.T.A No.6099/Del/2019  
(ASSESSMENT YEAR: 2011-12)**

Rajvanti Devi R/o Liwan Sonipat w/o Phool Kumar 96, R Model Town, Sonipat. PAN-AWVPD 5068N <b>(Appellant)</b>	Vs.	Income Tax Officer, Ward-5, Sonipat. <b>(Respondent)</b>
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Appellant By	<b>None (Application Rejected)</b>
Respondent by	<b>Sh. R.K. Gupta, Sr. DR</b>
Date of Hearing	<b>16.08.2021</b>
Date of Pronouncement	<b>07/09/2021</b>

**Hearing conducted via Webex**

**ORDER**

The present appeal has been filed by the assessee wherein the correctness of the order dated 22.04.2019 of CIT(A)-6, Rohtak pertaining to 2011-12 assessment year is assailed on various grounds including lack of proper notice and also on the specific ground that the order is passed before the date of hearing itself. Ground No.2 for the sake of completeness is extracted hereunder:

*"2. That the action of the Ld. CIT(A) Rohtak for not providing proper opportunity of being heard and dismissing the appeal on the basis that no representation has been made by the assessee, despite the fact that notices of hearing never received by the assessee in person through post. The order*

*passed on 14.03.2019 whereas it is mentioned that hearing was fixed on 03.06.2019 and on 13.06.2019. The order is passed before the date of hearing. Hence, the action of the Ld. CIT(A) is against the cardinal principle of natural justice and accordingly order deserves to be quashed.”*

*[emphasis supplied]*

2. At the time of hearing, no one was present on behalf of the assessee but an adjournment application was moved stating that the assessee is in not the position to contact her Authorized Representative. In view of the patent procedural deficiency noted in the impugned order as it could not stand in the eyes of law the adjournment application was rejected. The appeal was heard ex-parte qua the assessee appellant on merits after hearing the Ld. Sr. DR and it was directed that the issue is being restored back to the CIT(A) for a fresh consideration.

3. A perusal of the order shows that the assessee before the CIT(A) remained unrepresented. It is seen that the additions made in the order passed u/s 147/144 were assailed and ultimately in view of the fact that the assessee remained unrepresented, the appeal was dismissed referring to the decisions of the Hon'ble Apex Court in the case of Tukoji Rao Holkar vs. CWT [1997] 233 ITR 480 Holakar and CIT Vs. B.N. Bhattachargee and CIT vs. Multiplan (India) Ltd. 38 ITD (Del.) 320 etc.

4. A perusal of the order shows that the Ld. CIT(A) in page 2 of the impugned order notes that **“the case was again re-fixed for 13.06.2019**

**(Final opportunity)**. However, it is seen that the order was **passed on 14.03.2019**". Thus, patently the order was passed without giving due notice to the assessee; and without hearing the assessee before the date of hearing, itself. Such an order cannot be upheld. The impugned order accordingly, open to the "charge" of bias, prejudice and arbitrariness is set aside and the issues are restored back to the file of the Ld. CIT(A) with a direction to pass a speaking order in accordance with law. The assessee, in its own interests, is directed to ensure full and proper participation before the First Appellate Authority and not abuse the trust reposed. Said order was pronounced at the time of virtual hearing itself in the presence of the parties Webex.

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

Order pronounced on 07<sup>th</sup> September, 2021.

Sd/-  
**(DIVA SINGH)**  
**JUDICIAL MEMBER**

Dated: 07/09/2021  
PK/PS  
Kavita Arora, SPS

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI