

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

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

**I.T.A No.6256/Del/2019  
(ASSESSMENT YEAR: 2011-12)**

Sangeeta Sehgal, 95, Third Floor, State Bank Colony, Delhi-110 009 PAN-AHCPS 8966N <b>(Appellant)</b>	Vs.	Income Tax Officer, Ward-36(5), New Delhi <b>(Respondent)</b>
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Appellant By	<b>None</b>
Respondent by	<b>Sh. R.K. Gupta, Sr. DR</b>
Date of Hearing	<b>16.08.2021</b>
Date of Pronouncement	<b>09.09.2021</b>

**Hearing conducted via Webex**

**ORDER**

The present appeal has been filed by the assessee wherein the correctness of the order dated 20.05.2019 of CIT(A)-12 pertaining to 2011-12 assessment year is assailed on various grounds.

2. At the time of hearing, no one was present on behalf of the assessee. However, on considering the issue raised in ground No.1 wherein principles of natural justice are invoked including the pleading of lack of opportunity, it was deemed appropriate to proceed with the present appeal *ex-parte* qua the assessee appellant on merits after hearing the Ld. SR. DR.

3. A perusal of the record shows that the additions made by the Assessing Officer referring to Section 2 (22)(e) were assailed by the assessee before the CIT(A). A perusal of the impugned order specific para-3 shows that the written submissions assailing the addition made by the Assessing Officer were filed before the CIT(A). As is evident, the submissions were considered to be not sufficient for interfering with the order and the addition made was sustained. Examining the conclusion in the context of the ground raised it is borne out from the record that this fact was not communicated to the assessee. It is well settled legally that in case the written submissions are inadequate for grant of relief prayed forth from a quasi-administrative authority, then the said Authority is duty bound to confront this fact to the appellant. It is evident from the record that admittedly this fact was not confronted to the assessee. In the absence of any specific notice thereon the assessee's prayer made by the said ground has to be accepted. It is incumbent upon the adjudicating authority to specifically confront the fact to the appellant that based on the written submissions, the case cannot be allowed. Specific opportunity to be heard thereafter has to be provided. It is well settled that by mere filing of the written submissions Right to be Heard is not being waived off.

4. Considering the ground and the facts on record for the reasons set out hereinabove, the impugned order, accordingly, is set aside and the issues are restored back to the Ld. CIT(A) with the direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity of being

heard. Said order was pronounced at the time of virtual hearing itself in the presence of the parties via Webex.

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

Order pronounced on 09<sup>th</sup> September, 2021.

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

Dated: 09/09/2021

PK/Ps/Poonam(CHD)

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

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