

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : A : NEW DELHI

BEFORE SHRI R.S. SYAL, AM & MS SUCHITRA KAMBLE, JM

ITA No.6025/Del/2012
Assessment Year : 2008-09

Ashish Singhal,
C/o Advocate Lalit Kumar Sharma,
F-223A, Ground Floor,
Mangal Bazar, Laxmi Nagar,
New Delhi.
PAN: BJYPS8042N

Vs.

ITO,
Ward-20(4),
New Delhi.

Assessee By : Shri Lalit Kumar Sharma,
Advocate
Deptt. By : Shri K.K. Jaiswal, DR

Date of Hearing : 06.01.2016
Date of Pronouncement : 07.01.2016

ORDER

PER R.S. SYAL, AM:

This appeal by the assessee arises out of the order passed by the CIT(A) on 26.3.2012 in relation to the assessment year 2008-09.

2. This appeal is time barred by 186 days. A petition for condonation of delay has been filed explaining the reasons for the delay, being illness of the assessee's wife who was suffering from epilepsy which derailed the assessee's business activities due to his involvement in personal matters. We are satisfied with the reasons given by the assessee for the belated filing of the appeal before the Tribunal. As such, the delay is condoned and the appeal is admitted for hearing.

3. The only issue raised in this appeal is against the confirmation of addition of Rs.74,79,136. Briefly stated, the facts of the case are that the assessee is a commission agent who deposited a sum of Rs.74,79,136/- in his saving bank account with PNB Khari Baoli branch. The AO vide his letter dated 16.12.2010 required the assessee to furnish explanation about this bank deposit on 21.12.2010 by 4 PM. Since the assessee did not appear on that date, the AO passed assessment order on the same date on 21.12.2010, making an addition of

Rs.74.79 lac. The assessee remained unrepresented before the Id. CIT(A) who upheld the addition by means of an ex parte order. The assessee is aggrieved against the sustenance of addition.

4. After considering the rival submissions and perusing the relevant material, it is observed that the AO gave inadequate time to the assessee for furnishing the information or explanations. Since the assessee failed to do so within a time gap of five days only from the date of notice of the AO, and the assessment order was also passed on the same day, we are of the considered opinion that the assessment order is suffering due to violation of principles of natural justice. Our view is fortified by the judgment in the case of *S. Velu Palandar VS. Dy CTO (1972) 83 ITR 683 (Mad)* in which it has been held that the order passed ex parte on date fixed for hearing is not valid. In our considered opinion, the ends of justice would meet adequately if the impugned order is set aside and the

matter is restored to the file of AO. We order accordingly and direct the AO to decide the disputed issue afresh as per law, after allowing a reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open Court on 07.01.2016.

Sd/-

[SUCHITRA KAMBLE]
JUDICIAL MEMBER

Sd/-

[R.S. SYAL]
ACCOUNTANT MEMBER

Dated, 07th January, 2016.

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Copy forwarded to:

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

AR, ITAT, NEW DELHI.