

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

Before Sh. N. K. Saini, Accountant Member

ITA No. 490/Del/2017 : Asstt. Year : 2012-13

Sh. Devinder Kumar, C/o- M/s Lalit Vanjnai & Co., 70, Nehru Apartments, Outer Ring Road, New Delhi-110019	Vs	Income Tax Officer, Ward-32(2), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. ALPPK9019B		

**Assessee by : Sh. Satish Kumar, CA
Revenue by : Sh. Amrit Lal, Sr. DR**

Date of Hearing : 16.05.2017	Date of Pronouncement : 19.05.2017
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ORDER

This is an appeal by the assessee against the order dated 02.12.2016 of Id. CIT(A)-11, New Delhi.

2. Following grounds have been raised in this appeal:

“1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in passing an ex-parte order and that too without granting adequate opportunity of hearing.

2. That in any case and in any view of the matter, action of Ld. CIT(A) in passing the impugned order is bad in law and against the facts and circumstances of the case.

3. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts

in confirming the action of Ld. AO in making addition of Rs.2,000/- on account of salary income.

4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs.6,33,312/- on the alleged ground that assessee has not shown this income in his return-of income and that too by recording incorrect facts and findings and without observing the principles of natural justice.

5. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs.5,39,469/- on account capital introduction and that too without observing the principles of natural justice.

6. That having regard to the facts and circumstances of the case, Ld. CIT(A),has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs. 14,934/- on account of deduction under chapter VIA.

7. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234A, 234B and 234C of Income Tax Act, 1961.

8. That the appellant craves to leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

3. From Ground No. 1 of the assessee, it is clear that the main grievance relates to the *ex-parte* order passed by the Id. CIT(A) without granting adequate opportunity of being heard to the assessee.

4. Facts of the case in brief are that the assessee was engaged in the business of vehicle contract rentals and used his own as well as other hired vehicles for the purposes of vehicle rental business. The assessee filed its return of income on 31.03.2013 declaring total income of Rs.4,50,370/-. The case was selected for scrutiny under CASS. The notice of hearing u/s 143(2) of the Income-tax Act, 1961 was issued on 12.08.2013 for fixing the case for 23.08.2013. The AO assessed the total income of Rs.16,40,085/- u/s 143(3) of the I.T. Act, 1961 vide his order dated 30.03.2015 and made the various additions.

5. Being aggrieved the assessee carried the matter to the Id. CIT(A) who confirmed the addition by passing the *ex-parte* order and mentioned that the notice dated 25.10.2016 was issued for hearing on 26.11.2016 but there was no compliance. Now the assessee is in appeal and the contention of the Id. Counsel for the assessee is that no notice for hearing was received by the assessee and that the Id. CIT(A) had not decided the issue on merit. He requested that the matter may be sent back to the Id. CIT(A) for adjudication on merit after providing a due and reasonable opportunity of being heard. The Id. DR did not object if the matter may be sent back to the Id. CIT(A).

6. After considering the submissions of both the parties and the material on record, it is noticed that the Id. CIT(A) has not decided the issues raised by the assessee on merit and dismissed the appeal *ex-parte*. I, therefore, deem it appropriate to remand this case back to the file of the Id. CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

(Order Pronounced in the Court on 19/05/2017)

Sd/-
(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 19/05/2017

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR