

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI "G" BENCH,
NEW DELHI

BEFORE SHRI R.K. PANDA ACCOUNTANT MEMBER AND
SMT. BEENA A. PILLAI, JUDICIAL MEMBER

ITA No. 6829/DEL/2014
[Assessment Year: 2010-11]

M/s Shivalik Dhan Kutai Udyog 1214, Nayaganj, Sikandrabad Distt. Bulandshahr	Vs.	The I.T.O Ward - 4 Bulandshahr
(Appellant)		(Respondent)

Assessee by: Shri Somil Aggarwal, Adv.

Revenue by: Shri S.S. Rana, CIT- DR

Date of hearing : 12.04.2017

Date of pronouncement : 17.04.2017

ORDER

PER R.K. PANDA, ACCOUNTANT MEMBER:-

This appeal filed by the assessee is directed against the order dated 15.10.2014 of the CIT(A), Meerut relating to A.Y. 2010-11.

2. Although a number of grounds have been raised by the assessee, they all relate to the exparte order passed by the ld. CIT(A) upholding the determination of the income at Rs. 1,44,16,650/- by the A.O in the order passed u/s 144 of the Income-tax Act, 1961.

3. Facts of the case, in brief, are that the assessee is a partnership firm engaged in the business of manufacturing and trading of rice. It filed its return of income on 30.9.2010 disclosing total income of Rs. 92,550/-. The case was selected for scrutiny. Despite service of statutory notice from time to time, there was non-compliance from the side of the assessee for which the A.O completed the assessment u/s 144 of the Act on a total income of Rs. 1,44,16,650/-. Since there was non-compliance from the side of the assessee despite service of notice on a number of times, the ld. CIT(A) dismissed the appeal filed by the assessee on the ground that the assessee is not interested in pursuing the appeal for the reasons best known to him. Aggrieved with such order of the ld. CIT(A), the assessee is in appeal before us.

4. The ld. AR referring to the paper cutting advertisement issued by the Punjab National Bank dated 27.04.2012 submitted that the properties of the assessee were being auctioned for which he was not in a mental condition to appear before the A.O. Since he was under tremendous mental pressure and social stigma, he was not even in a position to appear before the ld. CIT(A). He submitted that the ld. CIT(A) has dismissed the appeal exparte without deciding the issue on merits. He further submitted that in the interest of justice, the assessee should be given one final opportunity to substantiate the return of income filed by it.

5. The ld. DR, on the other hand, strongly opposed the arguments advanced by the ld. AR. He submitted that despite number of opportunities given by the A.O as well as the ld. CIT(A), the assessee never appeared before the lower authorities. Therefore, the matter should be decided here and the order of the ld. CIT(A) be confirmed.

6. We have considered the rival arguments made by both the sides, perused the orders of the A.O and the ld. CIT(A) and the paper book filed on behalf of the assessee. We find despite repeated opportunities given by the A.O, the assessee did not appear before him for which he passed exparte order u/s 144 of the Act determining the total income at Rs. 1,44,16,650/-. Since there was non-compliance to the statutory notice issued by the ld. CIT(A), he also dismissed the appeal filed by the assessee for want of prosecution. It is the submission of the ld. AR that due to auction of the property by the bank, the assessee was not in a mental position for which there was no compliance before the authorities below. It is also his submission that given an opportunity, the assessee will appear before the AO and substantiate the return of income filed by it. Considering the totality of the facts and circumstances of the case and in the interest of justice, we deem it proper to restore the matter to the file of the A.O with the direction to give one more opportunity to the assessee to substantiate his case. The assessee is also hereby directed to appear before the A.O and not

to seek adjournment on any pretext. The A.O shall decide the issue in accordance with law. We hold and direct accordingly.

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

Order pronounced in the open court on 17.04.2017.

Sd/-

**(BEENA PILLAI)
JUDICIAL MEMBER**

Dated: 17.04.2017

V. Lakshmi

Sd/-

**(R.K. PANDA)
ACCOUNTANT MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR

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Draft dictated on	12.04.2017
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