

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”, NEW DELHI
BEFORE SHRI S.V. MEHROTRA, ACCOUNTANT MEMBER**

**ITA No.5682/Del/2016
Assessment Year : 2006-07**

Kuldip Singh, K-1, Sham Nagar, Delhi. PAN : AAYPS 3204 N	Vs.	ITO, Ward- 26(2), New Delhi.
(Appellant)		(Respondent)

Appellant by	:	Shri Deepak Chopra, FCA
Respondent by	:	Shri S. K. Jain, Sr.DR
Date of hearing	:	25-01-2017
Date of pronouncement	:	31-01-2017

ORDER

PER S.V. MEHROTRA, A.M :

This is an appeal filed by the assessee against the order dated 09.03.2015 passed by the Commissioner of Income Tax (Appeals)-15, Delhi, u/s 143(3)/147 of the Income Tax Act, 1961 (in short “the Act”) relating to assessment year 2006-07.

2. Brief facts of the case are that the Assessing Officer received information from Director of Enforcement through O/o DGIT (Inv.), New Delhi that two persons namely, Shri Bhupender Singh, S/o Shri Amar Singh and Shri Ravinder Pal Singh Anand, S/o Shri Jasbir Singh were apprehended on 01.03.2006 at Bholath, Dist. Kaputhala, Punjab by Punjab Police under suspicious circumstances and Indian currency totaling to

Rs.6,42,000/- was recovered and seized from them. The money was handed over to E.D.. Shri Ravinder Pal Singh Anand, *inter-alia*, stated before E.D. that he was working as a Driver with Shri Kuldeep Singh and the seized amount belonged to Shri Kuldeep Singh, which was to be delivered to some person in Bholath under instructions from his employer Shri Kuldeep Singh. The Assessing Officer after discussion made an addition of Rs.6,42,000/- in the hands of Shri Kuldeep Singh. Ld. CIT(A) dismissed the assessee's appeal *ex-parte*.

3. Ld. counsel submitted that no proper opportunity was afforded to the assessee by ld. CIT(A) and, therefore, the matter may be restored back to ld. CIT(A).

4. I have considered the submissions of both the parties and have perused the record of the case. Ld. CIT(A) has given the details of notices sent to assessee as under :-

S.No.	Date of Notice	Date of Compliance	Remarks
1.	04.08.2014	19.08.2014	None attended
2.	01.09.2014	11.09.2014	None attended
3.	22.12.2014	19.01.2015	Notice returned unserved with postal remarks "makan ban raha hai"
4.	30.01.2015	19.02.2015	Notice returned unserved with postal remarks "makan ban raha hai"

However, notice dated 20.02.2015 fixing the date of hearing on 09.03.2015 was sent to the A.O. for ensuring the service. The A.O.'s report in this respect is reproduced as under :-

"Sub: Appeal in the case of Sh. Kuleep Singh, Pan AAYUPS3204N, Appeal No.269/13-14, New Appeal No.1825/14-15 for A.Y. 2006-07 – Service of Notice – reg.

In reference to above subject it is submitted that the notice u/s 250 dated 20/02/2015 could not be served upon the Assessee as he has left the premises and gone to Canada permanently. Notice server has given his report marked back of the notice.

I am returning the original notice for taking appropriate action at your end.”

5. From the above sequence of events, it is evident that assessee could not be served with the notice and under such circumstances, in order to impart substantial to assessee, it would be interest of justice to restore the matter back to the file of Id. CIT(A) to afford one more opportunity to assessee. I direct accordingly. The assessee is directed to avail this opportunity by fully co-operating with the Department in disposal of appeal.

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

Order pronounced in the open court on this 31st day of January, 2017.

Sd/-
(S.V. MEHROTRA)
ACCOUNTANT MEMBER

Dated : 31-01-2017.

Sujeet

Copy of order to: -

- 1) The Appellant
- 2) The Respondent
- 3) The CIT
- 4) The CIT(A)-
- 5) The DR, I.T.A.T., New Delhi

By Order

//True Copy//

Assistant Registrar
ITAT, New Delhi