

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”, NEW DELHI
BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
ITA No.3880/Del/2017
Assessment Year : 2009-10**

Goutam Rungta, Kolkata	Vs.	ITO, Ward-1(4), Noida
PAN : ACQPR3314L		
(Appellant)		(Respondent)

Assessee by : Sh. Ved Jain, Adv.
Revenue by : Sh. Amit Jain, Sr. DR
Date of hearing : 23-10-2017
Date of pronouncement : 23 -10-2017

ORDER

PER R. K. PANDA, AM :

This appeal filed by the assessee is directed against the order dated 30th March, 2017 of the CIT(A)-I, Noida relating to assessment year 2009-10.

2. The grounds raised by the assessee are as under :-

- “1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals)[CIT(A)] is bad, both in the eyes of law as well as on facts.
2. (i) On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law in passing the order exparte without giving assessee an opportunity of being heard in clear violation of principle of natural justice.
(ii) That the order passed by the CIT(A) is bad in law and on fact, because despite issuing the notice dated 27/03/2017 fixing the case for 13/04/2017, the order was passed by CIT(A) as on 30/03/2017 only.
3. (i) On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in confirming the order passed by AO under Section 147, read with Section 148, ignoring the fact that the order is bad and liable to

be quashed as the condition and procedure prescribed under the statute have not been satisfied and complied with.

(ii) On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in confirming the order passed by the AO, despite the fact that the reassessment proceedings initiated under section 148 are bad in law as there is no live nexus between the reasons recorded and the belief formed by the AO.

4. (i) On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in confirming the addition of Rs.20,90,000/- made by AO on account of investment in property.

(ii) That the addition in bad law as the investment in property has been made out of the disclosed sources of income of the assessee.

5. The appellant craves leave to add, amend or alter any of the grounds of appeal.”

2. The Id. Counsel for the assessee, at the very outset, submitted that the assessing officer has no jurisdiction to assess the assessee. However, it is an admitted fact that there was non-compliance before the AO or the CIT(A). Therefore, he has no objection if this matter is restored to the file of the AO with a direction to decide the issue afresh including the issue of jurisdiction.

3. The Ld. DR while opposing the arguments advanced by the assessee, however, submitted that he has no objection if the matter is restored to the file of the AO for fresh adjudication.

4. I have considered the rival arguments made by both the sides and perused the record. It is an admitted fact that there was no appearance by the assessee either before the AO or before the CIT(A) for which ex parte orders have been passed. It is the submission of the Ld. Counsel for the assessee that the assessee is regularly assessed to tax at Kolkata and therefore the present AO has no jurisdiction over the assessee. Considering the totality of the facts of the case and in the interest of justice. I deem it proper to restore the issue to the file of the AO with a direction to decide the issue afresh including that of jurisdiction. The AO shall give due opportunity of being heard to the assessee and decide the issue as per fact and law. I hold and direct accordingly. The grounds raised by

the assessee are accordingly allowed for statistical purposes.

5. In the result appeal of the assessee is allowed for statistical purposes.
(Order Pronounced in the Court at the time of hearing itself i.e. on
23.10.2017).

Sd/-

(R. K. PANDA)
ACCOUNTANT MEMBER

Dated:23-10-2017

Binita

Copy of order to: -

- 1) The Appellant
- 2) The Respondent
- 3) The DRP-IV, New Delhi
- 4) The DR, I.T.A.T., New Delhi

By Order

Assistant Registrar
ITAT, New Delhi

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	23.10.2017		Sr. PS/PS
2	Draft placed before author	23.10.2017		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on	.2017		Sr. PS/PS
7	Date of uploading of Order	.2017		Sr. PS/PS
8	File sent to Bench Clerk	.2017		Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			