

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”, NEW DELHI
BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
ITA No.4146/Del/2017
Assessment Year : 2012-13**

Sudhir Kumar New Delhi	Vs.	ACIT, Circle-17 New Delhi
PAN : AGEPK671		
(Appellant)		(Respondent)

Assessee by : None
Revenue by : Sh. Amit Jain, Sr. DR
Date of hearing : 25-10-2017
Date of pronouncement : 27-10-2017

ORDER

PER R. K. PANDA, AM :

This appeal filed by the assessee is directed against the order dated 13th January, 2016 of the CIT(A)-, New Delhi relating to assessment year 2012-13.

2. Non-appeared on behalf of the assessee. Therefore, the appeal is being decided on the basis of material available on record and after hearing the ld. DR.

3. Grounds raised by the assessee are as under :

- “1. That on the facts and circumstances of the case the order of the learned Assessing Officer and confirmation of CIT(A) is bad in law.*
- 2. On the fact and circumstances of the case the LD CIT(A) passed ex parte appeal order without service of final opportunity notice to appellant. Appellant received notice submit application of adjournment which was grant by LD CIT(A) appellant not received notice issued dated 05.01.2016 without grant proper opportunity to appellant decide the appeal as dismissed without consider the facts and submission made by appellant in the Ground of Appeal.*
- 3. On the fact and circumstance of the case the LD CIT(A) was not justified dismissed in appeal Ground No. 1, 2, 3 & 4 without consider the facts evidence submission made by appellant correct prospective.*
- 4. That the LD CIT(A) erred in dismissed of appeal against addition of Rs*

367150/- without application of judicial mind against the principal of natural justice with appellant.

4. After hearing the Id. DR and perusal of the material available on record. I find that the assessee filed his return of income declaring total income of Rs. 13,16,980/-. The AO completed the assessment on a total income of Rs. 16,84,130/-. Since nobody appeared before the CIT(A), he passed an ex parte order dismissing the appeal due to non-appearance. As per the grounds of appeal, the assessee has not received the notice dated 5th January, 2016 fixing hearing of the appeal 12th January, 2016. In any case, the Id. CIT(A) has not decided the issue on merit.

5. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the matter to the file of the CIT(A) with a direction to grant one final opportunity to the assessee to substantiate his case. The assessee is also hereby directed to appear before the CIT(A) and make his submission failing which the Id. CIT(A) shall pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

(Order pronounced in the Open Court on 27/10/2017.)

Sd/-

(R. K. PANDA)

ACCOUNTANT MEMBER

Dated: 27-10-2017

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	25.10.2017		Sr. PS/PS
2	Draft placed before author	26.10.2017		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			