

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

Before Sh. N. K. Saini, Accountant Member

ITA No. 308/Del/2018 : Asstt. Year : 2014-15

Akshay Kumar Soni, 5A, Plot No. 22, Sai Heritage, Behind Hotel Blue Stone, Kaushambi, Sector-14, Ghaziabad-201010	Vs	DCIT, Circle-1, Ghaziabad
(APPELLANT)		(RESPONDENT)
PAN No. AYNPS9386C		

**Assessee by : Sh. Gaurav Goel, CA
Revenue by : Sh. B. R. Mishra, Sr. DR**

Date of Hearing : 05.06.2018	Date of Pronouncement : 11.06.2018
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ORDER

This is an appeal by the assessee against the order dated 03.11.2017 of
1d. CIT(A), Ghaziabad.

2. The only grounds raised in this appeal reads as under:

“1. That Ld. CIT(Appeals) has erred in confirming the additions of Rs.25,65,000/- by passing ex-parte order u/s 250 without giving proper opportunity of being heard even when there was no time-barring limit.”

3. Facts of the case in brief are that the assessee e-filed the return of income on 27.03.2015 declaring an income of Rs.12,32,740/- which was processed u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as the Act). Later on, the case was selected for scrutiny. The AO made the addition of Rs.25,65,000/- by observing that there was difference in the

receipts shown in Form No. 26AS and shown in the ITR and that the assessee has not furnished source of cash receipts. Accordingly, the income was assessed at Rs.37,97,740/-.

4. Being aggrieved the assessee carried the matter to the Id. CIT(A) who dismissed the appeal by passing the *ex-parte* order and sustained the addition made by the AO.

5. Now the assessee is in appeal. The Id. Counsel for the assessee submitted that no opportunity of being heard was given by the Id. CIT(A). Therefore, the Id. CIT(A) was not justified in sustaining the addition made by the AO.

6. In his rival submissions, the Id. Sr. DR supported the order of the AO.

7. I have considered the submissions of both the parties and perused the material available on the record. In the present case, it is noticed that the Id. CIT(A) decided the appeal of the assessee *ex-parte* by observing that the date was fixed for hearing on 27.09.2017 and the assessee requested for adjournment. The case was adjourned to 11.10.2017. On that date was also application was received for adjournment. The Id. CIT(A) although mentioned that the case was adjourned to 26.10.2017. However, it is not mentioned as to whether the said date was communicated to the assessee. It is well settled that nobody should be condemned unheard as per the *maxim "audi alteram partem"*. I, therefore, by keeping in view the principles of natural justice, deem it appropriate to set aside this issue 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.

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

(Order Pronounced in the Open Court on 11/06/2018)

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

Dated: 11/06/2018

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR