

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

Before Sh. N. K. Saini, Accountant Member

ITA No. 565/Del/2018 : Asstt. Year : 2008-09

Sunil Kumar, 18, Lajpatpuri, Near Subhash Market, Khurja Adda, Bulandshahr,	Vs	Income Tax Officer, Ward-3(2), Bulandshahr
(APPELLANT)		(RESPONDENT)
PAN No. AKbPK2136L		

**Assessee by : Sh. Jitendra Goel, Representative
Revenue by : Ms. Ashima Neb, Sr. DR**

Date of Hearing : 07.06.2018	Date of Pronouncement : 13.06.2018
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ORDER

This is an appeal by the assessee against the order dated 30.10.2017 of
1d. CIT(A), Aligarh.

2. Following grounds have been raised in this appeal:

“1. The impugned order of assessment made by Assessing Officer and upheld by Ld. CIT (A) is bad in law, wrong on facts and absolutely based on suspicion, surmises and conjectures.

2. That the impugned order or Income Tax officer was contrary to Law of natural justice.

3. The CIT (A) has erred in rejecting the appeal & passing ex parte order without verifying the service of notice.

4. The assessing officer has erred in considering deposit of cash of Rs. 39,00,000/- as unexplained & thus making addition.

5. *That assessing office has erred in ignoring the withdrawals made from the bank account and redeposited beside submission of documents in support of sales proceeds of agriculture land.*

6. *The Assessing officer was not justified making addition of interest on deposits made in the accounts of daughter and wife.*

7. *It is prayed that the appellant may be allowed to add further grounds of appeal at the time of hearing.*

It is prayed that the addition made of Rs.3953426/- may be deleted.”

3. Facts of the case in brief are that the assessee filed the return of income in response to the notice issued by the AO u/s 148 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as the Act) declaring an income of Rs.1,05,690/- on 31.03.2010. However, the AO framed the assessment u/s 144 of the Act and made the addition of Rs.39,53,426/-.

4. Being aggrieved the assessee carried the matter to the Id. CIT(A) who dismissed the appeal by passing the *ex-parte* order. The Id. CIT(A) mentioned that the notices were issued to the assessee but nobody appeared neither any submissions was made.

5. I have considered the submissions of both the parties and carefully gone through the material available on the record. In the present case, it is noticed that the Id. CIT(A) simply stated that the notices were issued for hearing. However, nothing is brought on record to substantiate that the notice for hearing was served upon 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.

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

(Order Pronounced in the Open Court on 13/06/2018)

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

Dated: 13/06/2018

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR