

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA (SMC) BENCH: AGRA**

BEFORE SHRI A. D. JAIN, JUDICIAL MEMBER

**I.T.A No. 460/Agra/2017
(ASSESSMENT YEAR-2008-09)**

Shri Prem Singh Bhullar, Madhav Chowk, Shivpuri (M.P.) PAN No.AJOPB7646J (Assessee)	Vs.	ITO, Shivpuri. (Revenue)
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Assessee by	Shri Manuj Sharma, AR.
Revenue by	Shri Waseem Arshad, Sr.DR.

Date of Hearing	28.05.2018
Date of Pronouncement	09.07.2018

ORDER

This is assessee's appeal for A.Y. 2008-09, taking the following grounds:

- “1. That the learned CIT (Appeals) has erred on facts and in law while dismissing of the appeal of the appellant treating the same as barred by limitation, without allowing any opportunity the appeal decided exparte is against the principles of natural justice, after taking into consideration the facts of the case, no addition is liable to be sustained, the addition made by the AO sustained by the learned CIT (Appeals) is liable to be deleted.*

- 2. That while dismissing of the appeal, the learned CIT (Appeals) has completely ignored the fact that no notice fixing of the appeal was served upon the assessee being the assessee changed his residence from the address*

mentioned in the memorandum of appeal on account of which no notice fixing the appeal was served upon the assessee, the appeal decided without allowing of the opportunity is not justified. Addition sustained on this score is liable to be deleted.

3. *That the assessment completed by the AO is bad in law being no notice under Section 143(2) was served upon the assessee prior to completing of the assessment under section 144 of the Income Tax Act.*
4. *That the deposits in the bank account represent the receipts received to assessee from running of cable network Dish T.V. business and commission income. All the deposits made in the bank account are fully explained and are out of the business undertaken by the assessee of running of Dish T.V. or from the insurance. Taking into consideration the above, the amount deposited in the bank account as unexplained is not called for, addition made by the AO sustained by the learned CIT (Appeals) is liable to be deleted.*
5. *That the learned CIT (Appeals) while deciding of the appeal has not appreciated that the return in the case was duly filed, the statement of bank account was filed indicating that the deposits in the bank account represent the transactions either from the business of running of cable T.V. or related with the insurance business, taking into consideration the above, no addition is liable to*

sustained, addition made by the AO sustained by the learned CIT (Appeals) is liable to be deleted.”

2. The AO completed the assessment of the assessee u/s 144 of the IT Act treating the deposits in the bank account, amounting to Rs.11,28,300/- as unexplained. The Id. CIT(A) by virtue of the impugned order, has decided the appeal ex parte qua the assessee, dismissing it for non prosecution.

3. Heard. Since the Id. CIT(A) has dismissed the assessee's appeal for non prosecution, which is unsustainable in law, the matter is remitted to the Id. CIT(A), to be decided afresh on merits, in accordance with law, on affording due and adequate opportunity of hearing to the assessee. All pleas available under the law shall remain so available to the assessee. The assessee, no doubt, shall co-operate in the fresh proceedings before the Id. CIT(A). Ordered accordingly.

4. In the result, for statistical purposes, the appeal is treated as allowed.

Order pronounced in the open court on 09/07/2018.

Sd/-
(A.D. JAIN)
JUDICIAL MEMBER

AKV

Copy forwarded to:

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

ASSISTANT REGISTRAR