

**IN THE INCOME TAX APPELLATE TRIBUNAL
Delhi Bench "SMC", New Delhi**

BEFORE SHRI N.K. SAINI, ACCOUNTANT MEMBER
I.T.A. No. 4065/Del/2018
A.Y.: 2013-14

Pramod Panday B-67, Sarita Vihar, New Delhi	Vs.	DCIT, Central Circle-19, New Delhi-55
[Appellant]		[Respondent]

Assessee by:	None
Respondent by:	Sh. Surendra Meena, Sr. DR

Date of Hearing:	04	10	2018
Date of Pronouncement:	09	10	2018

ORDER

N.K. SAINI, A.M:

This is an appeal by the assessee against the order dated 21.03.2018 of the learned CIT(A)-27, New Delhi. During the course of hearing, nobody was present on behalf of the assessee. Neither any adjournment was sought, I, therefore, proceeded *ex parte* and the appeal is decided after hearing the learned Sr. DR.

2. Following grounds have been raised in this appeal:-

"1. The CIT(A) ought to have not passed the order "ex parte".

2. The addition of Rs. 5,00,000/- u/s 2(22)(e) of the Act is wrong and is opposed to evidences on record.

3. The transactions of Rs. 5,00,000/- alleged to be dividend u/s 2(22)(e) of

the Act, being transactions entered into in the course of business and for the purposes of business, the provisions of section 2(22)(e) of the Act are not applicable at all.

2. Vide ground no. 1, the grievance of the assessee relates to the *ex parte* order passed by the learned CIT(A). Facts of the case in brief are that the assessee filed return of income on 31.7.2013 declaring an income of Rs. 30,82,910/-. Later on the case was selected for scrutiny. The AO made the addition of Rs. 5,00,000/- by making the disallowance u/s 2(22)(e) of the Income Tax Act (hereinafter referred to as the 'Act). Being aggrieved the assessee carried the matter to the learned CIT(A) who dismissed the appeal *ex parte* for want of prosecution.

4. Now the assessee is in appeal.

5. The learned Sr. DR supported the orders of the authorities below. In the present case, it is noticed that the learned CIT(A) dismissed the appeal of the assessee *ex parte* for non prosecution without discussing the case on merit. He simply stated that the notices issued for fixing the dates of hearing were either not complied with or adjournments were sought by the assessee by making excuses. However, nothing is brought on record to substantiate that there was no reasonable cause while seeking the adjournment. It is also not brought on record as to whether the notices issued were 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 remit this case back to the file of the learned CIT(A) to be decided afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

(Order pronounced in the open court on 09.10.2018.)

Sd/-
[N.K. SAINI]
Accountant Member

DATED: 09.10.2018

SH

Copy forwarded to:-

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

Assistant Registrar

		Date	
1.	Draft dictated on	4.10.2018	PS
2.	Draft placed before author	5.10.2018	PS
3.	Draft proposed & placed before the second member		JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS		PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk		PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		
11.	Date of uploading	.10.2018	