

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.2961/Del/2018
Assessment Year: 2014-15

Satish Sharma,
135/12, Old Najafgarh Road,
Gurgaon.

Vs. ITO,
Ward-4(1),
Gurgaon.

PAN: AYHPS6324G

(Appellant)

(Respondent)

| | | |
|-----------------------|---|--------------------------------|
| Assessee by | : | Shri M.C. Chaturvedi, Advocate |
| Revenue by | : | Shri Amit Jain, Sr.DR |
| Date of Hearing | : | 12.03.2019 |
| Date of Pronouncement | : | 12.03.2019 |

ORDER

This appeal by the assessee is directed against the *ex parte* order dated 26th February, 2018 of the CIT(A)-1, Gurgaon, relating to Assessment Year 2014-15.

2. Although a number of grounds have been raised by the assessee, the assessee has basically challenged the *ex parte* order of the CIT(A) in confirming various additions made by the Assessing Officer.

3. Facts of the case, in brief, are that the assessee is an individual and filed his return of income on 27th August, 2014 declaring an income of Rs.5,86,100/-. The case of the assessee was selected for scrutiny by issue of statutory notice u/s 142(1) and

143(2). The assessee, in response to the statutory notices appeared before the Assessing Officer and filed the requisite details as called for. The Assessing Officer completed the assessment u/s 143(3) on 28th December, 2016 determining the total income of the assessee at Rs.39,06,100/- wherein he made an addition of Rs.16,50,000/- on account of sale of motor car in cash and Rs.16,70,000/- being unexplained cash deposit in the bank account. Since none appeared on behalf of the assessee, the Id.CIT(A), in the *ex parte* order passed by him, upheld the additions made by the Assessing Officer.

4. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

5. The Id. counsel for the assessee, at the outset, submitted that the Id.CIT(A) has passed an *ex parte* order without giving any opportunity of being heard to the assessee. He submitted that in the interest of justice, the matter should be restored to the file of the CIT(A) with a direction to give one final opportunity to the assessee to substantiate his case.

6. The Id. DR, on the other hand, opposed the arguments advanced by the Id. counsel for the assessee and heavily relied on the order of the CIT(A).

7. After hearing both the sides I find the Id.CIT(A) in his *ex parte* order, in the instant case, has dismissed the appeal filed by the assessee and sustained the addition made by the Assessing Officer. It is the submission of the Id. counsel for the assessee

that given an opportunity he is in a position to substantiate his case before the CIT(A). Considering the totality of the facts and in the interest of justice, I deem it proper to restore the issue 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) without seeking adjournment under any pretext, failing which the Id.CIT(A) is at liberty to pass appropriate orders as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly, allowed for statistical purposes.

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

The decision was pronounced in the open court at the time of hearing itself on 12.03.2019.

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMFBER

Dated: 12th March, 2019

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Copy forwarded to

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi