

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.5758/Del/2018
Assessment Year: 2010-11

Gaurav Gupta,
E-18, Model Town,
Delhi.

Vs. ITO,
Ward-36(4),
New Delhi.

PAN: AIQPG8352F

(Appellant)

(Respondent)

Assessee by	:	Shri Akshat Jain, FCA
Revenue by	:	Ms Rakhi Vimal, Sr. DR
Date of Hearing	:	14.03.2019
Date of Pronouncement	:	27.03.2019

ORDER

This appeal by the assessee is directed against the order dated 18th January, 2018 of the CIT(A)-12, New Delhi, relating to Assessment Year 2010-11.

2. Although a number of grounds have been raised by the assessee, they all relate to the *ex parte* order of the CIT(A) confirming the various additions made by the Assessing Officer and also upholding the reassessment proceedings u/s 147 of the IT Act.

3. Facts of the case, in brief, are that the assessee is an individual. The case of the assessee was reopened by issue of notice u/s 148 of the Act. The Assessing Officer, in

the order passed u/s 143(3)/147 made addition of Rs.25,95,324/- on account of client code modification and another amount of Rs.25,953/- being the commission paid for arranging the entry for client code modification. Thus, the Assessing Officer determined the total income at Rs.27,97,547/- as against the returned income of Rs.1,76,270/-.

4. In appeal, the Id.CIT(A) confirmed the addition made by the Assessing Officer.

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

6. I have considered the rival arguments made by both the sides and perused the orders of the authorities below. It is an admitted fact that due to non-appearance before the CIT(A) despite service of notice, the Id. CIT(A) sustained the various additions made by the Assessing Officer. It is the submission of the Id. counsel for the assessee that in the interest of justice the assessee should be given an opportunity to substantiate his case. 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 Id.CIT(A) with a direction to grant one final opportunity to the assessee to substantiate his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) without seeking any adjournment under any pretext failing which the Id.CIT(A) is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Pronounced in the open court on 27.03.2019.

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

Dated: 27th 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