

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: "B", NEW DELHI**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI KULDIP SINGH, JUDICIAL MEMBER**

ITA No.4323/Del/2016
Assessment Year: 2012-13

M/s. D.K.P. Trading Co., Shop No. 55, New Anaj Mandi, Uchana Jind	Vs.	Income Tax Officer, Ward-1, Jind
PAN :AAHFD6091P		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Ms. Ashima Neb, Sr.DR

Date of hearing	15.04.2019
Date of pronouncement	15.04.2019

ORDER

PER R.K. PANDA, A.M.:

This appeal filed by the assessee is directed against the order dated 03.05.2016 of the learned CIT(A), Faridabad, relating to the assessment year 2012-13.

2. Despite service of notice, none appeared on behalf of the assessee, therefore, this appeal is being disposed of on the basis of material available on record and after hearing the learned DR.

3. Facts of the case, in brief, are that the assessee is a partnership firm and is engaged in the business as commission agent in food grains. It filed its return of income on 26.12.2012, declaring total income of Rs.11,580/-. The AO completed the

assessment under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') on 04.07.2014, determining the total income of Rs.15,96,580/-, wherein he made addition of Rs.15,00,000/- under Section 69A of the Act on the ground that Sh. Rakesh Kumar, one of the partners, had given Rs.15 lacs on interest @1% p.m. on 19.10.2011 to one Sh. Sandeep Kumar, S/o- Sh. Satyawan. The entry in respect of the said transaction is duly recorded at page 3 of the purported cash book pertaining to M/s. DKP Trading Company. Sh. Rakesh Kumar, partner, has put his signature on the said purported cash book as 'for M/s. D.K.P. Trading Co.' which shows the authentication of the transaction. Since the assessee could not explain to the satisfaction of the AO regarding the above entry, the AO invoking the provision of Section 69A of the Act made the addition of Rs.15,00,000/-. Similarly, the AO made addition of Rs.85,000/- being interest accrued on the said loan for the period from 19.10.2011 to 31.03.2012. He, accordingly, determined the total income of the assessee at Rs.15,96,580/-.

3.1 Since the assessee did not appear before the learned CIT(A) despite number of opportunities granted, the learned CIT(A) in the *ex-parte* order passed by him, affirmed the addition made by the AO and thereby dismissed the appeal filed by the assessee. Aggrieved with such order of the learned CIT(A), the assessee is in appeal before the Tribunal.

5. We have heard the learned DR and perused the relevant material available on record. It is an admitted fact that despite repeated opportunities granted by the CIT(A), the assessee did not appear before him, for which, he has passed the *ex-parte* order sustaining the two additions made by the AO. Considering the

totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the learned CIT(A) with a direction to grant one final opportunity to the assessee to substantiate its case and decide the case as per fact and law. The assessee is also hereby directed to appear before the learned CIT(A) and explain its case, failing which, the learned CIT(A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order is pronounced in the open court on 15th April, 2019.

Sd/-
[KULDIP SINGH]
JUDICIAL MEMBER

Sd/-
[R.K. PANDA]
ACCOUNTANT MEMBER

Dated: 15th April, 2019.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi