

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "A" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER

ITA.No.3951/Del./2016
Assessment Year 2011-2012

Shri Avadaiappan Rajendran, 388, 2 nd Cross, Dollars Colony, J.P. Nagar, Phase-4, Bangalore – 560 078. PAN AAGPR0913D	vs	The DCIT, Circle-48(1), New Ward 72(1), New Delhi.
		(Respondent)

For Assessee :	Shri P.C. Yadav, Advocate.
For Revenue :	Shri P.V. Gupta, Sr. D.R.

Date of Hearing :	22.04.2019
Date of Pronouncement :	23.04.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-21, New Delhi, Dated 25.04.2016, for the A.Y. 2011-2012, challenging the addition of Rs.20,99,294/- under section 68 of the Income Tax Act, 1961.

2. The A.O. noted in the assessment order that the assessee filed return of income declaring taxable total income of Rs.23,20,400/-. The case was selected for scrutiny. The A.O. noticed from the AIR information that the assessee has made cash deposit of Rs.20,99,294/- in ICICI saving bank account. The assessee filed a written reply dated 24.03.2014 submittin the details of Bank statement. The A.O. noted that assessee failed to explain source of the cash deposit and made addition of Rs.20,99,294/- vide assessment order dated 23.03.2014 under section 143(3) of the I.T. Act, 1961.

3. The Ld. CIT(A) noted that several notices were issued to him for hearing of the appeal, but, there was no cooperation from the side of the assessee. Therefore, the appeal of assessee were dismissed for non-prosecution.

4. After considering the rival submissions, we are of the view that the matter requires reconsideration at the level of the A.O. Learned Counsel for the Assessee pointed out that A.O. has mentioned in the assessment order that written reply have been filed on 24.03.2014. However, the

A.O. passed the assessment order on 23.03.2014. Therefore, the reply of the assessee has not been considered. Further, Learned Counsel for the Assessee pointed out that due to change in address, there was no service of the notice at the appellate stage. He has, therefore, submitted that matter may be restored to the file of A.O.

5. Ld. D.R. however, relied upon the Orders of the authorities below.

6. Considering these facts, it is clear that assessee filed written reply before A.O. on 24.03.2014, but, the A.O. passed the assessment order anti-dated on 23.03.2014. Thus, reply of the assessee has not been considered by the A.O. Further, even though assessee did not appear before the Ld. CIT(A), is incumbent on the part of the Ld. CIT(A) to decide the appeal of assessee on merits, giving reasons for decision in the appellate order as per Section 250(6) of the I.T. Act, 1961. Thus, both the Orders of the authorities below cannot be sustained in Law. We, therefore, set aside the Orders of the authorities below and restore the matter in issue to the file of A.O. with a direction to re-decide the

matter as per Law, by giving reasonable, sufficient opportunity of being heard to the assessee.

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

Order pronounced in the open Court.

Sd/-
(L.P. SAHU)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 23rd April, 2019.

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'A' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.