

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

BEFORE SH. R.K PANDA, ACCOUNTANT MEMBER

ITA No.8096/Del/2018
Assessment Year: 2010-11

Sh. Om Prakash Vig, B-2/1202, Vasant Kunj, New Delhi-110030 PAN No. AAAPV0792Q	Vs	Income Tax Officer Ward – 33 (5) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Manu Monga, Advocate
Respondent by	Sh. S. L. Anuragi, Sr. DR

Date of hearing:	09/05/2019
Date of Pronouncement:	09/05/2019

ORDER

PER R.K. PANDA, AM:

1. This appeal filed by the assessee is directed against the order dated 09.10.2018 of the CIT(A)-11, New Delhi relating to A. Y. 2010-11.

2. The assessee in the various grounds of appeal has challenged the exparte order of the CIT(A) in sustaining the addition of Rs.19,33,000/- made by the Assessing Officer u/s. 68 of the IT Act, 1961.

3. Facts of the case, in brief, are that the assessee is an individual. On the basis of AIR information that assessee has made cash deposits of Rs.19,33,000/- in the bank account, the case of the assessee was reopened u/s. 147 after recording reasons and notice u/s. 148 was issued. The assessee in response to the same filed return of income declaring total income of Rs.6,41,454. During the course of assessment proceedings the Assessing Officer asked the assessee to substantiate the cash deposits of Rs.19,33,000/-. In absence of any proper compliance from the side of the assessee, the Assessing Officer completed the assessment u/s. 147 /144 determining the total income at Rs.25,74,454/- by making addition of Rs.19,33,000/- u/s 68 of the IT Act.

4. Since none appeared on behalf of the assessee before the CIT(A) despite repeated opportunities granted by him, the Ld. CIT(A) in the exparte order passed by him dismissed the appeal filed by the assessee.

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 lower authorities. The Ld. Counsel for the assessee submitted that there was no service of

notice on the assessee except notice dated 13.08.2018 fixing the appeal for hearing on 05.09.2018. The assessee appeared on the same date before the CIT (A) and the case was adjourned to 08.10.2018. However, the counsel of the assessee inadvertently omitted to note the date for which he could not appear before the CIT(A). Further although specific grounds challenging the validity of the reassessment was taken, the Ld. CIT(A) has not adjudicated the same. He accordingly submitted that in the interest of justice the assessee should be given one more opportunity to substantiate its case and the matter may be set aside to the Assessing Officer.

7. The Ld. DR on the other hand strongly opposed the request of the Ld. Counsel for the assessee for setting aside of the matter. He submitted that the assessee did not appear either before the Assessing Officer or before the CIT(A) despite repeated opportunities granted by them. The assessee is unable to explain the source of the cash deposits. Therefore, the addition made by the Assessing Officer and sustained by the CIT(A) should be upheld and the appeal filed by the assessee should be dismissed.

8. I have considered the rival arguments made by both the sides and perused the material available on record. It is an admitted fact that the assessee did not file the requisite details to substantiate the cash deposits in the bank account for which the Assessing Officer passed the exparte order and made the addition

of Rs.19,33,000/-. I find before the CIT(A) also there was no appearance for which the Ld. CIT(A) dismissed the appeal of the assessee for non prosecution. Considering the totality of the facts of the case and in the interest of justice I deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant one final opportunity to the assessee to substantiate the cash deposits in the bank account and decide the issue as per fact and law. The assessee is also hereby directed to appear before the Assessing Officer and cooperate in the early completion of the assessment proceeding without seeking adjournment under any pretext failing which the Assessing Officer 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 purpose.

9. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court at the time of hearing itself i.e. on 09.05.2019.

Sd/-
(R.K PANDA)
ACCOUNTANT MEMBER

Neha

Date:- 09 .05.2019

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	09.05.2019
Date on which the typed draft is placed before the dictating Member	09.05.2019
Date on which the approved draft comes to the Sr.PS/PS	09.05.2019
Date on which the fair order is placed before the Dictating Member for Pronouncement	09.05.2019
Date on which the fair order comes back to the Sr. PS/ PS	09.05.2019
Date on which the final order is uploaded on the website of ITAT	09.05.2019
Date on which the file goes to the Bench Clerk	09.05.2019
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	