

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC : NEW DELHI
BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER**

ITA Nos.8011 & 8012/Del/2018
Assessment Year: 2009-10

Anand Swaroop,
Bulandshahr,
565, New Sarak, Devipura-1,
Bulandshahr,
Uttar Pradesh.

Vs. ITO,
Ward-3(1),
Bulandshahr.

PAN: CRSPS9772G

(Appellant)

(Respondent)

Assessee by	:	None
Revenue by	:	Shri S.L. Anuragi, Sr. DR
Date of Hearing	:	07.05.2019
Date of Pronouncement	:	13.05.2019

ORDER

The above two appeals filed by the assessee are directed against the separate *ex parte* orders of the CIT(A), Ghaziabad, relating to Assessment Year 2009-10. For the sake of convenience these were heard together and are being disposed of by this common order.

2. Facts of the case, in brief, are that the assessee is an individual. On the basis of AIR information received that the assessee made cash deposit of Rs.10 lakh in the savings bank account maintained with Indian Bank, Buladshahr, the case of the assessee was reopened u/s 147 of the Act and notice u/s 148 was issued. The assessee filed his return of income on 28th June, 2016 declaring nil income and agricultural

income of Rs.4,48,000/-. The Assessing Officer issued statutory notices asking the assessee to explain the source of deposit. However, due to non-compliance from the side of the assessee, the Assessing Officer completed the assessment u/s 144/147 of the Act on 22nd December, 2016 determining the total income of the assessee at Rs.10,44,506/-. Since there was no compliance from the side of the assessee, the the Id.CIT(A) in the *ex parte* order passed by her, dismissed the appeal for non-prosecution.

3. Similarly, the Assessing Officer has also levied penalty of Rs.2,47,400/- u/s 271(1)(c) of the IT Act. The Id.CIT(A), in the *ex parte* order passed by her, sustained the penalty so levied by the Assessing Officer.

4. Aggrieved with such orders of the CIT(A), the assessee has filed appeals before the Tribunal by raising various grounds.

5. I have heard 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 by the assessee before the Assessing Officer and the CIT(A) both of them have passed *ex parte* orders in the quantum proceedings as well as in the penalty proceedings. It is also an admitted fact that the Id.CIT(A) dismissed both the appeals filed by the assessee for non-prosecution and has not decided the appeal on merit. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore both the issues to the file of the Assessing Officer with a direction to grant one final opportunity to the assessee and decide the issue as per fact and law. The assessee is

also hereby directed to appear before the Assessing Officer and substantiate his case, failing which the Assessing Officer is at liberty to pass appropriate orders as per law. I hold and direct accordingly. The grounds raised by the assessee are allowed for statistical purposes.

6 . In the result, both the appeals filed by the assessee are allowed for statistical purposes.

The decision was pronounced in the open court on 13.05.2019.

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

Dated: 13th May, 2019

dk

Copy forwarded to

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

Asstt. Registrar, ITAT, New Delhi