

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.6118/Del/2018
Assessment Year: 2009-10

Dhanpali,
Chaman Singh,
B-6, Basement, JS Arcade,
Near Bikanerwala,
Opp. Metro Pillar 65,
Sector-18,
Noida (UP).

Vs. ITO,
Ward-1(3),
New Delhi.

PAN: CSFPD3728R

(Appellant)

(Respondent)

Assessee by	:	Shri Chaman Singh, CA
Revenue by	:	Shri S.L. Anuragi, Sr. DR
Date of Hearing	:	07.05.2019
Date of Pronouncement	:	13.05.2019

ORDER

This appeal by the assessee is directed against the *ex parte* order dated 30th March, 2017 passed by the CIT(A)-1, Noida, relating to Assessment Year 2009-10.

2. The assessee, in her various grounds, has challenged the *ex parte* order of the CIT(A) dismissing the appeal filed by the assessee for want of prosecution and thereby sustaining the various additions made by the Assessing Officer.

3. Facts of the case, in brief, are that the case of the assessee was reopened u/s 147 of the Act and notice u/s 148 was issued on the ground that the assessee has

deposited cash of Rs.17,97,000/- in the savings bank account maintained by her with Oriental Bank of Commerce. Since there was no compliance from the side of the assessee, the Assessing Officer completed the assessment u/s 144 of the Act determining the total income at Rs.17,97,000/-. Since the notice issued by the CIT(A) was returned by the Postal Authorities with the remarks 'Refused', the Id. CIT(A) in the *ex parte* order passed by him, dismissed the appeal for non-prosecution.

4. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal by raising various grounds.

5. The Id. counsel for the assessee submitted that the assessee is about 75 years old widow and lives in the village and the notice was not received by the assessee for which nobody could appear either before the Assessing Officer or before the CIT(A). He further submitted that the Id.CIT(A) instead of deciding the case on merit has dismissed the same for non-prosecution. He submitted that in the interest of justice the assessee should be given an opportunity to substantiate her case.

6. The Id. DR, on the other hand, strongly relied on the order of the Assessing Officer and CIT(A).

7. 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 the assessee neither appeared before the Assessing Officer nor before the CIT(A) for which both the authorities have passed *ex parte* orders. However, considering the totality of the facts of the case

and considering that the assessee is a senior citizen and a widow, therefore, 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 her case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the Assessing Officer and substantiate her case, 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 allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is 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

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

Asstt. Registrar, ITAT, New Delhi