

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

**BEFORE SH. R. K. PANDA, ACCOUNTANT MEMBER
AND
SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

ITA No.816/Del/2019
Assessment Year: 2015-16

Poonam Jain (Legal heir) W/o Late Sh. Jitendra Kumar Jain, C-59/3, Wazirpur Industrial Area, New Delhi-110052 PAN No.AAJPJ0389A	Vs	Income Tax Officer Ward- 34 (3) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Manoj Kumar Patwari, CA
Respondent by	Smt. Naina Soin Kapil, Sr. DR

Date of hearing:	04/07/2019
Date of Pronouncement:	08/07/2019

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the order dated 26.11.2018 of the CIT(A)-12, New Delhi relating to A. Y. 2015-16.

2. Although a number of grounds have been raised by the assessee, however, they all relate to the exparte order passed by the CIT(A) in confirming the additions made by the Assessing

Officer.

3. Facts of the case, in brief, are that the assessee is an individual and is engaged in the business of manufacturing and trading of S. S. utensils and S. S. Patt and shown income from the same. He filed his return of income on 27.08.2015 declaring taxable income of Rs.4,86,420/-. Since the assessee could not substantiate with evidence to the satisfaction of the Assessing Officer regarding the various unsecured loans received during the year amounting to Rs.2,62,70,000/-, the Assessing Officer added to the same to the total income of the assessee and determined the taxable income at Rs.2,62,70,000/-. Since none appeared on behalf of the assessee despite repeated opportunities granted, the Ld. CIT(A) in the exparte order passed by him, confirmed the addition made by the Assessing Officer.

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

5. The Ld. Counsel for the assessee at the outset submitted that various documents were filed before the Assessing Officer which he has not considered properly. The Ld. Counsel for the assessee filed a chart showing the various details filed before the Assessing Officer to substantiate the identity and creditworthiness of the loan creditors and the genuineness of the transactions such as the copy of income tax return, bank

statement, confirmation, compliance of notice u/s. 133 (6) etc. However, the Assessing Officer in utter disregard to the various submissions made by the assessee has made the huge addition to the total income of the assessee. He submitted that the assessee was not keeping well for which he was seeking adjournment from time to time before the CIT(A) and ultimately he died on 03.03.2019 on account of cancer. He submitted that in the interest of justice the legal heir of the assessee should be given an opportunity to substantiate her case and the matter should be restored to the file of the Assessing Officer so that all details necessary can be again filed before him to substantiate the identity and credit worthiness of the loan creditors and the genuineness of the transactions.

6. The Ld. DR while supporting the order of the CIT(A) submitted that she has no objection if the matter is restored to the file of the Assessing Officer.

7. We have heard the arguments made by both the sides and perused the orders of the authorities below. We find in the instant case the Assessing officer made addition of Rs.2,62,70,000/- u/s. 68 of the IT Act on the ground that the assessee could not explain satisfactorily the identity and credit worthiness of the loan creditors and the genuineness of the transactions. We find the Ld. CIT(A) dismissed the appeal filed by the assessee since nobody appeared before him. It is the submission of the Ld. Counsel for the assessee that various

details were filed before the Assessing Officer to substantiate the identity and credit worthiness of the loan creditors and the genuineness of the transactions. It is also his submission that since the assessee was suffering from cancer and died subsequent to passing of the order of the CIT(A) there was no proper compliance before the CIT(A) for which the Ld. CIT(A) passed the exparte order. It is also his submission that given an opportunity that the legal heir of the assessee is in a position to substantiate with evidence to the satisfaction of the Assessing Officer regarding the identity and credit worthiness of the loan creditors and the genuineness of the transaction. Considering the totality of the facts of the case and in the interest of justice we deem it proper to restore this issue to the file of the Assessing Officer with a direction to grant one more opportunity to the assessee to explain her case. The Assessing Officer shall decide the issue as per fact and law after giving due opportunity of being heard to the assessee. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purpose.

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

Order pronounced in the open court on 08.07.2019.

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Sd/-
(R.K PANDA)
ACCOUNTANT MEMBER

Neha

Date:- .07.2019

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	04.07.2019
Date on which the typed draft is placed before the dictating Member	08.07.2019
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	08.07.2019
Date on which the file goes to the Bench Clerk	
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	