

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.3780/Del/2018
Assessment Year: 2005-06

Vinay Jain,
158, Rajdhani Enclave,
Pitampura,
New Delhi.
PAN: AEXPJ7759Q

Vs. ITO,
Ward 25(1),
New Delhi.

(Appellant)

(Respondent)

Assessee by : Shri Piyush Kaushik, Advocate
Revenue by : Shri S.L. Anuragi, Sr.DR

Date of Hearing : 30.07.2019
Date of Pronouncement : 31.07.2019

ORDER

This appeal filed by the assessee is directed against the *ex parte* order dated 1st March, 2016 of the CIT(A)-14, New Delhi relating to Assessment Year 2005-06.

2. The assessee in the various grounds of appeal has challenged the *ex parte* order of the CIT(A) in confirming the various additions made by the Assessing Officer in the order passed u/s 147/143(3) of the IT Act.

3. Facts of the case, in brief, are that the assessee is an individual. The assessee had filed the revised return of income on 25.12.2005 declaring total income of Rs.1,50,000/-. The case of the assessee was reopened on the basis of report of the Investigation Wing that the assessee has received accommodation entry from various

entry operators. The Assessing Officer completed the assessment u/s 147/143(3) at a total income of Rs.4,90,670/-. Since none appeared before the CIT(A), the Id.CIT(A) in the *ex parte* order passed by him, sustained 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 Id. counsel for the assessee submitted that the Id.CIT(A) has passed the *ex parte* order due to non-appearance on behalf of the assessee. He, however, has not disposed of the appeal on merit. He submitted that in the interest of justice this appeal should be restored to the file of the CIT(A) with a direction to grant one more opportunity to the assessee to substantiate his case.

6. The Id. DR, on the other hand, strongly opposed the arguments advanced by the Id. counsel. Referring to page 3 of the order of the CIT(A), he submitted that despite nine opportunities granted to the assessee, he did not bother to appear before the CIT(A). Therefore, the order of the CIT(A) should be upheld and the grounds raised by the assessee should be dismissed.

7. I have considered the rival contentions made by both the sides and perused the orders of the Assessing Officer and CIT(A). It is an admitted fact that despite number of opportunities granted by the CIT(A), the assessee did not appear before him for which he passed the *ex parte* order dismissing the appeal of the assessee for want of 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 CIT(A) with a direction to grant one final opportunity to the assessee to substantiate his case. The assessee is also hereby directed to appear before the CIT(A) and cooperate in completion of the hearing, failing which, the Id.CIT(A) 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 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 31.07.2019.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMFBER

Dated: 31st July, 2019

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi