

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.1237/Del/2019
Assessment Year: 2010-11

Ashok Kumar Tyagi,
C/o Sanjeev Anand & Associates,
77, Navyug Market,
Ghaziabad.

Vs. ITO,
Ward-1(1),
Ghaziabad.

PAN: AQFPT8388P

(Appellant)

(Respondent)

Assessee by : Shri Sumit Gupta, FCA
Revenue by : Shri S.L. Anuragi, Sr.DR

Date of Hearing : 29.07.2019
Date of Pronouncement : 01.08.2019

ORDER

This appeal by the assessee is directed against the ex parte order dated 18.12.2018 of the CIT(A), Ghaziabad, relating to Assessment Year 2010-11.

2. The assessee in its various grounds of appeal has challenged the order of the CIT(A) in upholding the validity of the reassessment proceedings as well as sustaining the addition of Rs.17,90,000/- made by the Assessing Officer u/s 69 of the IT Act.

3. Facts of the case, in brief, are that the assessee is an individual. The Assessing Officer, on the basis of the information received that the assessee has made cash deposit of Rs.52,40,000/- during the financial year 2009-10 relating to assessment year 2010-11, issued a notice to the assessee to verify the source of such deposit. Since the assessee did not file any reply nor filed the bank account, the Assessing Officer issued another notice to the assessee to explain the source. He further noted that the assessee has not filed the return of income for the impugned assessment year. He, therefore, issued notice u/s 148 after reopening the case u/s 147 by recording reasons. He also issued statutory notices u/s 143(2) and 143(1). The assessee, in response to the notice u/s 148, filed the return of income declaring total income at Rs.8,720/- on 11th September, 2011. The Assessing Officer, during the course of assessment proceedings, confronted the deposits made in the bank account. After considering the submissions made by the assessee from time to time, the Assessing Officer made addition of Rs.17,90,000/- u/s 69 of the IT Act being the unexplained cash deposit in the bank account. Since none appeared before the CIT(A) despite service of notice, the Id.CIT(A), vide *ex parte* order passed by him, confirmed the addition so made.

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

5. I have heard the rival arguments made by both the sides and perused the material available on record. I find the Assessing Officer in the instant case, made addition of Rs.17,90,000/- u/s 69 of the IT Act being the unexplained cash deposit in

the bank account maintained by the assessee. I find due to non-appearance of the assessee before the CIT(A) despite a number of opportunities granted, the Id.CIT(A), vide ex parte order passed by her, upheld the addition so made by the Assessing Officer. Considering the totality of the facts of the case and in the interest of justice, I deem it appropriate 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 and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) and substantiate his case, 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.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

The decision was pronounced in the open court on 01.08.2019.

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

Dated: 01st August, 2019

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

Asstt. Registrar, ITAT, New Delhi