

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'A': NEW DELHI)**

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 3274/Del/2017  
(Assessment Year: 2009-10)**

Bhup Singh, S/o. Late Shri Dhara Singh, Village Nistauli, Ghaziabad	Vs	ITO, Ward-1(2), CGO Complex- 1, Hapur Chungi, Ghaziabad
PAN-AHNPV3829Q		
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Sh. Sanjay Parashar, Adv	
<b>Respondent by</b>	Sh. Sanjay Kapoor, Sr. DR	

**ORDER**

**PER ANADEE NATH MISSHRA, AM**

[A] This appeal has been filed by the assessee against impugned appellate order dated 31.03.2017 of learned Commissioner of Income Tax (Appeals), Ghaziabad. The grounds of appeal are as under:-

1. *That on the facts and in circumstances of the case and in law, the Ld. CIT(A) erred in deciding the appeal without providing due opportunity.*
2. *That on the facts and in circumstances of the case and in law, the Ld. CIT(A) erred in deciding the appeal without advertng to the merits of the claim, and through a completely non-speaking order.*
3. *That on the facts and in circumstances of the case and in law, the Ld. CIT(A) erred in denying the benefit as available u/s. 54B of the Act to the appellant, in a sum of Rs. 6579388.*

4. That on the facts and in circumstances of the case and in law, the Ld. CIT(A) erred in confirming addition of Rs. 2052030 on account of alleged difference in explained receipts.

[B]. Assessment order dated 31.3.2015 was passed by the Assessing Officer under section 147/143(3) of I.T. Act in which total income was assessed at Rs. 86,31,418/- as against returned income of nil as per following computation:

***“In result, income is computed as under:-***

<b><i>Income Shown</i></b>	<b><i>Nil</i></b>
<i>Add:-</i>	
<i>(i). Addition (as discussed in para 3.3)</i>	<i>Rs. 65,79,388/-</i>
<i>(ii). Addition (as discussed in para 4)</i>	<i>Rs. 20,52,030/-</i>
<i>Total Addition</i>	<i>Rs. 86,31,418/-</i>
<b><i>Total Income</i></b>	<b><i>Rs. 86,31,418/-</i></b>
<i>Agricultural income for rate purpose Rs. 2,55,970/-.”</i>	

[C]. Aggrieved, the assessee filed appeal before the ld. CIT(A). During appellate proceedings before ld. CIT(A), the assessee did not avail of opportunities for hearing provided by the ld. CIT(A). Impugned appellate order dated 31.3.2017 was passed by the ld. CIT(A), dismissing the assessee’s appeal for want of prosecution as well as on merits. Aggrieved again, the assessee has filed this present appeal in Income Tax Appellate Tribunal (ITAT for short). At the time of hearing before us on 17.9.2019 and again on 19.9.2019, it was submitted by learned counsel for the assessee, that the only prayer from assessee’s side presently is that the disputed issues

raised in this appeal may be remanded back to the Id. CIT(A) for fresh adjudication on merits. It was submitted by him that the assessee was prevented from availing of the opportunities provided by the Id. CIT(A) because of prolonged illness of Shri. Sanjay Parashar, Advocate, who was authorized by the assessee to represent the assessee during appellate proceedings before the Id. CIT(A). Shri. Sanjay Parashar, Advocate made personal appearance before us on both the aforesaid dates of hearing i.e. 17.9.2019 and 19.9.2019. An affidavit deposed by Shri. Sanjay Parashar was also filed alongwith the medical papers. The relevant portion of the affidavit is reproduced as under:

*“The deponent hereby solemnly affirms and states as under:*

*1). That the deponent, in the capacity of counsel for the above named appellant, had filed appeal on behalf of the appellant before Ld. CIT(A), Ghaziabad and is well conversant with the facts and circumstances of the case and competent to swear this affidavit.*

*2). That during financial year 2016-17, the deponent had been keeping poor/ill health on account of “LAPROSCOPIC HERNIA PREPERITIONEAL INGUINAL BILATERAL” problems and could not concentrate attention on professional assignments.*

*3). That ultimately, when the medical/ill health related problems became so acute, unbearable and intolerable, the deponent was advised for operation on urgent basis, consequently the deponent had to be admitted in Columbia Asia Hospital, Ghaziabad. The relevant supporting medical documents of Columbia Hospital are enclosed, forming part of this affidavit.”*

[D]. At the time of hearing before us, the learned Departmental Representative did not express any objection to the prayer of the assessee requesting that all the disputed issues be remanded back to the file of the ld. CIT(A) for fresh order of merits. In view of the foregoing, and after hearing both sides, we hereby set aside the aforesaid impugned order dated 31.03.2015 of the ld. CIT(A) with the direction to pass a fresh order on merits after providing a reasonable opportunity of being heard to the assessee. The assessee is directed to present himself in person or through an authorized representative before the ld. CIT(A) on 26.11.2019 to receive notice of hearing. The assessee is further directed to cooperate in the disposal of the appellate proceedings before the ld. CIT(A) and to not seek any adjournments except on compelling grounds. This appeal is disposed of in accordance with the aforesaid directions.

(E). In the result, the appeal is partly allowed for statistical purposes.

Order pronounced in Open Court on 26.09.2019.

**Sd/-**  
**(H.S. SIDHU)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 26.09.2019  
*SH*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Draft dictated	19.09.2019
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Approved Draft comes to the Sr.PS/PS	
Order signed and pronounced on	
File sent to the Bench Clerk	
Date on which file goes to the AR	
Date on which file goes to the Head Clerk.	
Date of dispatch of Order.	
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