

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

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 249/Del/2019
Assessment Year: 2013-14

YATENDRA KUMAR,
VILLAGE AND POST KAJIPUR HAPUR
ROAD, MEERUT (UP)
(PAN: BBYPK6652E)
(ASSEESSEE)

vs. ITO, WARD 2(4),
MEERUT

(RESPONDENT)

Assessee by: Sh. V.K. Goel, CA
Revenue by: Ms. Ekta Vishnoi, Sr. DR.

ORDER

This appeal is filed by assessee against the Order dated 12.6.2018 passed by the Ld. CIT(A), Meerut relating to Assessment Year 2013-14 on the following grounds:-

1. That the order passed by the authorities is arbitrary, unjust, illegal and bad in law because the authorities below erred in law as well as in facts in passing in order.
2. That the order passed by the ITO is illegal, contrary to the facts and circumstances of the case, which has been wrongly confirmed by the Ld. CIT(A) without giving proper opportunity.
3. That ITO/CIT(A) was not justified in assessing the income of Rs. 20,43,800/- as unexplained deposits in bank.
4. That Id. Authorities below was not justified in assessing the deposits as income of the appellant.
5. That the CIT(A) was also not justified in confirming the income, assessed by the ITO as unexplained deposit Rs. 20,43,800/-.

6. That the appellant craves to add, delete or modify any grounds of appeal before / at the time of hearing of appeal.
7. That without prejudice to above, the order as passed by the authorities below and demand so created thereon including interest is highly excessive.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of brevity.

3. During the hearing, Ld. counsel for the assessee has stated that lower authorities have erred in law and on facts in passing the orders without providing adequate opportunity of being heard and without observing the principle of natural justice. It was further submitted that Ld. CIT(A) has also erred in law and on facts in not quashing the impugned reassessment ex parte order passed by AO u/s 144/147 of the Act. However, he confirmed the said ex parte order of the AO. Therefore, he requested that the issues in dispute may be remitted back to the Ld. CIT(A) to decide the same afresh, as per law after giving adequate opportunity of being heard to the assessee and consider all the documents/evidences of the assessee.

4. On the other hand, Ld. DR relied upon the order of the Ld. CIT(A) and stated that Ld. CIT(A) has given various opportunities to the assessee, but the assessee remained non-cooperative.

5. I have heard both the parties and perused the records, especially the orders of the revenue authorities. I am of the view that there is no doubt that assessee remained non-cooperative before the Ld. CIT(A) as well as before the AO. I further find that AO has passed the ex parte order dated 09.10.2017 u/s. 147/144 of the Act, which in my opinion, is not in accordance with the principles of natural justice and it is an erroneous approach. However, Ld. Counsel for the assessee undertakes to appear before the Ld. CIT(A) and will cooperate in speedy disposal of

the appeal as well as not seek any unnecessary adjournment before the Ld. CIT(A), if this Bench set aside the issues to the Ld. CIT(A) for fresh adjudication. Keeping in view of the facts and circumstances as explained above and in the interest of justice, I set aside the issues in dispute to the file of the Ld. CIT(A) for hearing on **13.01.2020 at 10.00 AM** with the directions to decide the same afresh, after giving adequate opportunity of being heard to the assessee. It is made clear that no notice for hearing will be issued by the Ld. CIT(A) to the assessee. Assessee is also directed through his Counsel to appear before the Ld. CIT(A) on **13.01.2020 at 10.00 AM** for hearing to substantiate his case and did not take any unnecessary adjournment in the case.

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

Order pronounced on 01/10/2019.

Sd/-

[H.S. SIDHU]
JUDICIAL MEMBER

Date 01/10/2019

"SRBHATNAGAR"

Copy forwarded to: -

1. Appellant -
 2. Respondent -
 3. CIT
 4. CIT (A)
 5. DR, ITAT
- TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches

