

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

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

**ITA No.-5433/Del/2017, A.Y. 2011-12**

Sh. Ranjeet Kumar, C-338, Ram Pal Chowk, Sector-7, Dwarka, New Delhi-110075 PAN : ALAPK9771F	Vs.	ITO, Ward-33(4) New Delhi
<b>Appellant</b>		<b>Respondent</b>

Assessee by : None

Revenue by : Sh. Sunil Kr. Yadav, Sr. DR

**ORDER**

**PER ANADEE NATH MISSHRA, A.M.:**

**(A)** This appeal has been filed by the Assessee against the impugned appellate order dated 31.01.2017 passed by Learned Commissioner of Income Tax (Appeals)-15, New Delhi [in short, "Ld. CIT(A)"] pertaining to Assessment Year 2011-12. The Assessee has raised following grounds of appeal :-

1. *On the facts and circumstances of the case the order passed by the learned CIT(A) is bad both in the eyes of law and on facts.*
2. *On the facts and circumstances of the case the order passed by the learned CIT(A) is bad in*

*law having been passed without giving the assessee an appropriate and adequate opportunity of being heard in clear violation of the principles of natural justice.*

3. *On the facts and circumstance of the case the order passed by the learned CIT(A) is bad both in the eyes of law and on facts as the same has been passed without giving any finding on the merits of the case.*

4. *On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law in confirming the proceedings under Section 147, read with Section 148, ignoring the fact that the same was bad in the eye of law as the conditions and procedure prescribed under the statute have not been satisfied and complied with.*

5. *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the order of reassessment despite the reasons recorded for the issue of notice under Section 148 being bad in the eye of law and are contrary to the facts.*

6. (i) *On the facts and circumstances of the case the learned CIT(A) has erred both in the eyes of law and on facts in confirming the addition of Rs. 54,56,989/- made by the AO by estimating the income at the rate of 8 per cent of the gross total receipts.*

(ii) *That the addition was made arbitrarily at the rate of 8 per cent without there being any basis for the same.*

7. *That the appellant craves leave to add, amend or alter any of the grounds of appeal.*

[[B] The relevant portion of the aforesaid impugned appellate order dated 31.01.2017 of the Ld. CIT(A) is reproduced as under :-

*“The appeal in this case has been filed against the assessment order passed u/s 144 read with Section 147 of the I. T. Act (in short 'the Act') on 26.03.2015 assessing the total income at Rs.54,56,989/-. During the course of appellate proceedings various notices were issued to the appellant. However, no submission/details in support of the appeal filed against the addition made by the AO were furnished. It is seen that on various dates listed for hearing it's only an adjournment request which was made from time to time. A notice dated 02.05.2016 was issued fixing the matter for 26.05.2016 this notice was issued at the Address C-338, Ram Phai Chowk, Sector - 7, Dwarka, New Delhi - 110075 the address which was given in Form No. - 35 as per which the present appeal has been filed. The said notice was received back from the postal authorities with the remark 'refused'. Thereafter notice dated 27.05.2016 was issued through AO listing the matter for 09.06.2016. However, on this day AR of the appellant sought an adjournment and the hearing was adjourned to 08.07.2016. On 08.07.2016 also adjournment was sought and the matter was adjourned to 12.07.2016. There was no compliance on 12.07.2016. AR however attended on 13.07.2016 and the case was adjourned to 16.08.2016. On 16.08.2016, again the time was sought through an article clerk from the CA Firm and the matter was adjourned to 07.09.2016. There was no compliance on 07.09.2016. AR however attended on 05.10.2016 and the matter was further adjourned to 19.10.2016 on request of AR. The appeal was assigned to the charge of the undersigned vide order F. No. Addl. CIT/(Hqr.)/(Coord)/ CAP Rationa./CIT(A)/2016-17/1222 dated 22.11.16. Another opportunity was given to the appellant vide notice dated 29.11.2016 fixing the hearing on 09.12.2016. On 09.12.2016, AR of the appellant attended and sought a short adjournment and the matter was accordingly adjourned to 15.12.2016. The AR however attended*

*on 27.12.2016 and the case was adjourned to 20.01.2017. On 20.01.2017, another AR (Shri Bhupendra Kaushik) with a fresh power of attorney appeared and requested for time as he was not aware as to what documents were submitted during the appellate proceedings. He was made aware that no documents/papers have been filed other than the appeal papers as per form no- 35 and he was given a final opportunity to bring forth the submissions whatever he wants to rely upon on 31.01.2017. No documents/material/submissions were filed on 31.01.2017 also. From the above it may be seen that despite several opportunities given to the appellant, appellant has not filed any submissions/documents even the basic documents such as statement of account, balance sheet, profit and loss account are not filed. It is also noted that during the course of assessment proceedings also though several notices were issued and some of the notices (notice dated 06.01.2015,. 30.01.2015 and 12.02.2015) were returned back with the remark "refused" as mentioned by the AO in the assessment order. Though appellant attended before the AO on 24.02.2015 and was served a questionnaire along with notice u/s 142(1) dated 23.02.2015, but, no details were furnished by the appellant before the AO. AO has also noted in the assessment order that assessee had not given any details even in respect of Profit & loss account except stating gross profit to be Rs.7,35,235/-. As there was no compliance from the assessee's side and no clarifications, submissions or details were filed by the assessee before the AO, AO assessed the income at Rs.54,56,989/- which he estimated to be @ 8% of gross receipts of Rs.6,82,12,374/-. It is further noted that in the appeal filed as per Form No.-35, appellant has not submitted any facts/details with respect to his statement of affairs. During the course of appellant proceedings also despite several opportunities given as mentioned above, the appellant did not avail of any of the opportunities*

*and no details in respect of his income/receipts/expenses are furnished. It is noted that the appellant was given number of opportunities during the course of assessment proceedings but no details were submitted by him and was given sufficient number of opportunities during the course of appellate proceedings also but no submissions in substance was made by him. In the circumstance, it is clear that the appellant does not wish to avail of any of the opportunities given to him nor he is to file any submissions/details in respect of his affairs. The addition made by the AO is therefore, confirmed.”*

[C] This present appeal has been filed by the assessee against the aforesaid impugned appellate order dated 31.01.2017 of the Ld. CIT(A). At the time of hearing, Revenue was represented by Shri Sunil Kr. Yadav, Senior Departmental Representative (“Ld. Sr. DR”, for short). However, none was present from the assessee’s side. In the absence of any representation from assessee’s side, at the time of hearing before us, we heard the Ld. Sr. DR; who relied upon the assessment order dated 26.03.2015 of Assessing Officer; under section 144/147 of the I.T.Act and the aforesaid impugned order dated 31.01.2017 of the Ld. CIT(A). After perusal of the materials on record ; we find that the Ld. CIT(A) has passed speaking order on merits. Relevant portion of the impugned order of the Ld. CIT(A) has already been reproduced in foregoing paragraph [B] of this order. We find that the Ld. CIT(A) has given detailed reasons for his decision on merits in the aforesaid impugned appellate order dated 31.01.2017 of Ld. CIT(A). During

appellate proceedings in Income Tax Appellate Tribunal ("ITAT", for short) no material has been brought for our consideration to persuade us to take a view different from the view taken by the Ld. CIT(A) in the impugned order on merit. After hearing the Ld. Sr. DR, and after perusal of materials on record, and further, in view of the foregoing discussion, we decline to interfere with the aforesaid impugned appellate order dated 31.01.2017 of Ld. CIT(A), and accordingly, this appeal is dismissed.

[D] Before we part; we explicitly clarify that the assessee will be at liberty to approach ITAT for restoration of the appeal in accordance with Proviso to Rule 24 of Income Tax (Appellate Tribunal), Rules, 1963. If the assessee does approach ITAT for restoration of the appeals in ITAT, the matter will be considered in accordance with law having regard to the facts and circumstances.

[E] In the result, appeal filed by assessee is dismissed.

Order pronounced in the open court on 27.01.20.

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

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

Dated: 27.01.2020  
\*BR\*

Copy forwarded to:  
1. Appellant

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

TRUE COPY

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	23.01.2020
Date on which the typed draft is placed before the dictating Member	23.01.2020
Date on which the typed draft is placed before the Other Member	
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	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	