

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F" NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

I.T.A. No.8318/DEL/2019
Assessment Year: 2014-2015

Uma Suri (L/H of Ravi Suri), 9D, Type A, Welcome Group Cooperative, Plot No.6, Sector-3, New Delhi.	vs.	ITO, Ward-43(1), New Delhi.
TAN/PAN: ASIPS1759G		
(Appellant)		(Respondent)

Appellant by:	Smt. Premlata Bansal, Adv.		
Respondent by:	Shri Surender Pal, Sr.D.R.		
Date of hearing:	09	12	2019
Date of pronouncement:	07	02	2019

ORDER

PER AMIT SHUKLA, JM

The aforesaid appeal has been filed by the Assessee against the impugned order dated 16.09.2019 passed by Commissioner of Income Tax (Appeals)-XV, Delhi for the quantum of assessment passed u/s.143(3) for the Assessment Year 2014-15. In the grounds of appeal, the Assessee has raised following grounds.

“1. Whether on the facts and circumstances of the case and under law, the CIT (A) has erred in law in passing an ex-parte order against the Appellant.

2. *Whether on the facts and circumstances of the case and under law, the CIT (A) has erred in law in not considering that there was non-compliance on the part of the appellant due to the death of the appellant i.e. Mr. Ravi Suri, which lead to non-representation of the case.*

3. *That in the facts and circumstances of the case, the CIT (A) has erred in law in facts in confirming the addition of Rs. 2,57,88,750/- made by the AO U/s 69A of the Act.*

4. *That in the facts and circumstances of the case, the CIT (A) has erred in law in facts in confirming the addition of Rs. 33,86,354/- while computing the long term capital gain.”*

2. The present appeal has been filed by the legal heir of the assessee, who has expired on 02.08.2019. The facts in brief are that the assessee has filed his return of income on 28.07.2014 declaring total income of Rs.93,85,570/-. The assessee's case was selected for scrutiny under CASS for cash deposit in the savings bank account and accordingly notices u/s.143(2) has been issued. The bank statement of the assessee revealed that he has deposited cash for sums aggregating to Rs.2,57,88,750/- in his bank account. After detailed reasoning and finding, Assessing Officer has confirmed the said addition u/s.69A. Further, he has also made addition on account of Long Term Capital Gain of Rs.33,86,354/- in respect of four plots sold to M/s. Shree Padam Infra Developers Pvt. Ltd. which was claimed to be agricultural land within the purview of Section 2(14). The appeal was filed by Late Shri Ravi Suri, the assessee, and as per the noting of the Ld. CIT(A) at paragraph 3, on initial dates of hearing, adjournment was sought but later on none appeared on behalf of the assessee.

Accordingly, he proceeded to decide the appeal ex-parte and confirmed the additions made by the ld. Assessing Officer.

3. Before us, ld. counsel for the assessee submitted that during the course of appellate proceedings, the assessee had expired and due to this reason compliance could not be made. Accordingly, in the interest of justice, it was submitted that matter should be remanded back to the file of the assessee to be decided a fresh and on merits.

4. Ld. DR, on the other hand, did not have any objection if the matter is remanded back to the file of the Ld. CIT(A) to be decided a fresh.

5. After considering the rival submissions and material placed on record, we find that initially assessee had made compliance of the notices through authorized representative and adjournment was sought. However, later on, when assessee had died, the notices sent could not be responded and accordingly Ld. CIT(A) decided the appeal ex-parte vide order dated 23.09.2019, i.e., just after the expiry of the assessee. Apart from that, the order has been passed in the name of the deceased person because that information was not placed before the Ld. CIT(A).

6. In view of the aforesaid facts and circumstances and in the interest of substantial justice, we are remanding the issue raised in grounds of appeal, before us, back to the file of the Ld. CIT(A) to be decided a fresh and in accordance with law after giving due and effective opportunity of hearing to the assessee to substantiate its case.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 7th December, 2019.

Sd/-

**[ANADEE NATH MISSHRA]
[VICE PRESIDENT]**

DATED: December, 2019

PKK:

Sd/-

**[AMIT SHUKLA]
JUDICIAL MEMBER**