

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC-2' BENCH,  
NEW DELHI [THROUGH VIDEO CONFERENCE]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 5480/DEL/2019  
[Assessment Year: 2010-11]

Shri Rupesh Aggarwal  
187, Nandini Apartment  
Model Town West  
Ghaziabad

Vs. The Income tax Officer  
Ward 2 (2)  
Ghaziabad

PAN: ALZPA 7694 L

[Appellant]

[Respondent]

Date of Hearing : 02.06.2020

Date of Pronouncement : 03.06.2020

Assessee by : Shri Gautam Jain, Adv

Revenue by : Shri R.K. Gupta, Sr. DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER,**

This appeal by the assessee is preferred against the order of the CIT(A), Ghaziabad dated 10.04.2019 pertaining to assessment year 2010-11.

2. Vide Ground Nos 1 to 1.4, the assessee has challenged the initiation of proceedings u/s 147 of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short]. Vide Ground No. 2 with its sub grounds, the assessee has challenged the additions made u/s 69 of the Act and Ground No. 3 with its sub grounds, relates to the disposal of the appeal exparte without granting any fair and proper of being heard to the assessee.

3. At the very outset, the ld. counsel for the assessee drew our attention to page 5 of the order of the first appellate authority and pointed out that the first appellate authority served notices on two occasions, i.e. on 22.2.2019 and 15.03.2019 and on both dates, the appellant sought adjournment. It is the say of the ld. counsel for the assessee that thereafter, the ld. CIT(A) proceeded to dismiss the appeal exparte.

4. Briefly stated, the facts of the case are that Return of Income was selected for scrutiny assessment as per AIR information in relation to cash of Rs. 14.35 lakhs deposited in the SB A/c with Corporation Bank. Notice u/s 148 of the Act was issued and served upon the assessee. The assessee was asked to explain the source of cash deposit

in the Savings Bank A/c. The assessee challenged the reopening of the assessment.

5. The Assessing Officer observed that though the reopening was challenged, but no explanation was given relating to source of deposits in cash in the Savings Bank A/c. Moreover, it has been pointed out by the Assessing Officer that the assessee is using two PAN Numbers - one for filing his return of income and the other for cash deposits. Accordingly, the addition of Rs. 14.35 lakhs was made.

6. We find that the first appellate authority, though served notice on two occasions, as mentioned hereinabove, but has himself admitted that the assessee sought adjournments. We fail to understand as to what was the urgency in dismissing the appeal ex parte. Therefore, in the interest of justice and fair play, we deem it fit to restore the entire issues before the Id. CIT(A). The Id. CIT(A) is directed to dispose of the appeal on merits of the case after affording reasonable and fair opportunity of being heard to the assessee.

7. In the result, the appeal of the assessee in ITA No. 5480/DEL/2019 is treated as allowed for statistical purposes.

The order is pronounced in the open court on 03.06.2020.

Sd/-

Sd/-

[SUCHITRA KAMBLE]  
JUDICIAL MEMBER

[N.K. BILLAIYA]  
ACCOUNTANT MEMBER

Dated: 03<sup>rd</sup> June, 2020.

VL/

Copy forwarded to:

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

Asst. Registrar  
ITAT, New Delhi

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