

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

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA No.4586/Del./2017
Assessment Year: 2009-10

Shri Bhavar Singh, C/o- Karamveer Singh, C- 217, BETA-1, Greater Noida (Gautam Buddha Nagar), Noida	Vs.	ITO, Ward-1(2), Noida
PAN :ACAPN9433A		
(Appellant)		(Respondent)

Appellant by	Shri Rohit Tiwari, Advocate
Respondent by	Shri F.R. Meena, Sr.DR

Date of hearing	17.12.2020
Date of pronouncement	17.12.2020

ORDER

PER O.P. KANT, AM:

This appeal by the assessee is directed against order dated 30/03/2017 passed by the learned CIT(Appeals)-I, Noida [in short 'the Ld. CIT(A)'] for assessment year 2009-10.

2. Before us, the learned counsel of the assessee submitted that appeal has been decided *ex-parte* without any adjudication on merit. He submitted that the Ld. CIT(A) issued two notices,

within the period of a week, which could not be complied due to the reason that the address provided was of his native place and at that point of time, no one was available at his native place. He submitted that assessee has provided new address in the form No. 36 filed before the Tribunal. He, accordingly, submitted that the assessee is willing to pursue the appeal and it may be restored back to the file of the learned CIT(A).

3. The learned DR, on the other hand, submitted that in view of non-compliance of the notices issued, the Ld. CIT(A) is justified in dismissing the appeal of the assessee.

4. We have heard rival submission of the parties on the issue in dispute and perused the relevant material on record. The learned CIT(A) has dismissed the appeal observing as under:

*“2. In this case notices fixing the date of hearing on 23.03.2017 and 29.03.2017 were sent to the appellant on the address given in appeal memo which were returned by the postal authorities with the remarks that **“no such person hence returned”**.”*

3. In view of the above no meaningful purpose is to be served by keeping the appeal pending. The impugned assessment order is therefore confirmed in view of non prosecution of the appeal by the appellant. The appeal of the appellant falls and is dismissed.”

5. In our opinion, in terms of section 250(6) of the Income-tax Act, 1961 (in short ‘the Act’), the Ld. CIT(A) is required to pass reasoned order on merit even in the case of none representation by the assessee. Since this appeal has been dismissed *ex-party* without deciding the issue in dispute on merit, we feel it appropriate to set aside the impugned order dated 30/03/2017 and restore this appeal back to the file of the Ld. CIT(A) for

passing a reasoned order on merit after providing adequate opportunity of being heard to both the assessee and the Assessing Officer.

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

Order pronounced in the open court on 17th December, 2020.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Dated: 17th December, 2020.

RK/-(D.T.D.S.)

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi