

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC-1": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.4535/Del./2019
Assessment Year 2010-11

Kripal Singh Vill. Dungarpur Rilkha, Dankaur, Gautam Budh Nagar, Uttar Pradesh. PAN No. BXMPK0701L	vs.	ITO Ward 2(1) Noida.
(Appellant)		(Respondent)

For Assessee :	None
For Revenue :	Shri Prakash Dubey, Sr. DR

Date of Hearing :	07.01.2021
Date of Pronouncement :	07.01.2021

ORDER

This appeal by assessee has been directed against the order of Ld. CIT(Appeals)-1, Noida dated 30.11.2018 for AY 2010-11. The assessee has been notified the date of hearing through registered post, however, none appeared on behalf of the assessee.

2. I have heard Ld. DR and perused the findings of the authorities below.

3. In this case, AO passed the assessment order dated 10.11.2017 u/s 147/144 of the IT Act determining the total

income of assessee at Rs. 40,90,000/-. The said order was challenged before Ld. CIT(A). The Ld. CIT(A) noted that appeal is filed online and Form No. 35 has been downloaded. The impugned assessment order, copy of the demand notice and challan for fees deposited in filing the appeal are not available on record. Assessee was required to rectify the defects in appeal as above. Notices were issued to the assessee through registered post. However, the same has been returned by the postal authorities with the remarks "that address is incomplete". The Ld. CIT(A) in absence of assessee dismissed the appeal of assessee for non compliance of the above provisions contained u/s 249 of the Act and for not filing the above record.

4. After considering the submission of Ld. DR, I am of the view that the matter requires reconsideration at the level of the Ld. CIT(A). The assessee contended in the grounds of appeal that no opportunity of being heard has been given by the Ld. CIT(A) while dismissing the appeal of the assessee. This fact is strengthened by the fact that it is mentioned in the impugned order that the notices sent to the assessee have been returned un-served by the postal authorities, therefore, impugned appellate order has been passed without giving opportunity of being heard to the assessee and as such, same cannot be sustained in law.

5. I, accordingly, set aside the impugned order and restore the appeal of assessee to the file of Ld. CIT(A)-Noida with direction to re-decide the appeal of the assessee as per law by giving reasonable sufficient opportunity of being heard to the assessee.

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

Order pronounced in the open Court on 07.01.2021.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Dated: 07.01.2021

*Kavita Arora

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches : Delhi.