

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC-2": NEW DELHI
(Through Video Conferencing)**

**BEFORE
SHRI R.K. PANDA, ACCOUNTANT MEMBER**

ITA No. 3943/Del/2019
Asstt. Year 2009-10

Pramod Kumar F-11, Green Park extn., New Delhi - 110 016 PAN BHBPK1073J	Vs.	ITO Ward -32(3) Ghaziabad
(Appellant)		(Respondent)

Assessee by:	None
Department by :	Shri Vinod Sharma, Sr. DR
Date of Hearing	31/12/2020
Date of pronouncement	07/01/2021

ORDER

PER R.K. PANDA, AM

This appeal filed by the assessee is directed against the ex parte order dated 10th July, 2018 passed by the Ld. CIT(A) -11, New Delhi relating to assessment year 2010-11.

2. Although a number of grounds have been raised by the assessee, these all relate to the ex parte order of the Ld. CIT(A)

sustaining the addition of Rs. 12,76,000/- made by the AO u/s 69A of the I.T. Act 1961.

2. Facts of the case, in brief, are that the assessee is an individual. On the basis of AIR information that the assessee has made cash deposit of Rs. 12,76,000/- in his saving bank account, the case of the assessee was reopened by issuing of notice u/s 148 dated 29th March, 2017. Despite service of notice u/s 148 and subsequent notice u/s 142(1) along with detailed questionnaire, there was no compliance from the side of the assessee. The AO obtained information u/s 133 (6) from the HDFC Bank, Vasant Kunj and PNB, Greater Noida. Subsequently the AR of the assessee appeared before the AO alongwith the bank statement and the computation of income. However, despite number of opportunities granted to substantiate the source of such deposit, there was no compliance from the side of the assessee to explain the source of the cash deposit in the bank account. The AO, therefore, completed the assessment u/s 147/144 of the Act determining the total income of the assessee at Rs. 14,38,420/- wherein he made addition of Rs. 12,76,000/- u/s 69A to the returned income of Rs. 1,62,420/-.

3. Since there was no compliance from the side of the assessee despite three opportunities granted by the Ld. CIT(A), he passed the ex parte order sustaining the addition made by the AO. Aggrieved with such order of the Ld. CIT(A) the assessee is in appeal before the Tribunal.

4. None appeared on behalf of the assessee despite service of notice. Therefore, this appeal is being decided on the basis of material available on record and after hearing the Ld. DR.

4.1 A perusal of the order of the Ld. CIT(A) shows that two notices were sent through e-mail and the last notice was sent through speed post on 1st June 2017 fixing the date of hearing for 15th June, 2018. Since there was no compliance from the side of the assessee, Ld. CIT(A), following the decision of Hon'ble Supreme Court in the case of CIT vs. BN Bhattacharya reported in 118 ITR 461 (SC) and the decision of the Delhi Bench of the Tribunal in the case of CIT vs. Mulliplan India Pvt. Ltd. reported in 38 ITD 320 (Delhi) dismissed the appeal of the assessee for non prosecution. He , however, while deciding the appeal on merit has simply sustained the addition made by the AO in a cryptic order. Considering the totality of the facts of the case and in the interest of justice, I deem it appropriate to restore this issue to the file of

the Ld. CIT(A) with a direction to grant one final opportunity to the assessee to substantiate his case and decide the appeal on the basis of facts and law by passing a speaking order. The assessee is also hereby directed to appear before the Ld. CIT(A) and explain the source of cash deposit in the bank account, failing which the Ld. CIT(A) is at liberty to pass appropriate order as per law. I hold and direct it accordingly. The appeal of the assessee is accordingly allowed for statistical purposes.

5. In the result the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 07/01/2021

sd/-

**(R.K. PANDA)
ACCOUNTANT MEMBER**

Dated: 07/01/2021

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Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

