

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : SMC-1 : NEW DELHI  
(Through Virtual Hearing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.1554/Del/2020  
Assessment Year: 2011-12

Naveen Kumar Gupta,  
BA-97, Shalimar Bagh,  
New Delhi.

Vs ITO,  
Ward-34(2),  
New Delhi.

PAN: AKGPG8731Q

(Appellant)

(Respondent)

Assessee by	:	Shri Ashok Kumar Taneja, Advocate
Revenue by	:	Shri R.K. Gupta, Sr. DR
Date of Hearing	:	20.05.2021
Date of Pronouncement	:	20.05.2021

ORDER

This appeal filed by the assessee is directed against the ex parte order dated 27.11.2019 of the CIT(A)-12, New Delhi, relating to assessment year 2011-12.

2. The grounds raised by the assessee are as under:-

01. That the Ld. CIT(A) has dismissed the appeal without affording proper opportunity to the assessee. That the assessee has not received any notice by post or by hand.

2. That the Ld. CIT(A) has grossly erred both in law and on facts and circumstances of the case by not appreciating that the receipt of sales consideration for sale of rural agricultural land is in the capital domain and not a revenue receipt.

3. That the Ld. CIT(A) has grossly erred in law and on facts and circumstances of the case by not appreciating the sale agreement of land

disclosing all facts about buyer, seller, property description and location and consideration were put on record.

4. That the Ld. CIT(A) has erred in law, facts and circumstances of the case the penalty proceedings u/s 271(1)(c) and u/s 271F on wholly illegal and untenable grounds.

5. That Ld . CIT(A) has passed Order without serving any statutory notice is bad in law and against the principal of natural justice and should be quashed ab-initio.

6. Assessee has every right to make, add, delete, modify or alter any ground of appeal at the time of hearing.ö

3. Facts of the case, in brief, are that the assessee is an individual. In this case, NMS information was received that the assessee during the F.Y. 2010-11 relevant to A.Y. 2011-12 had deposited cash of Rs.22,50,000/- in his savings bank account maintained with IDBI bank. Further, the assessee had made transaction in multi commodity exchange to the tune of Rs.1,16,06,11,460/-. As no return was filed for the A.Y. 2011-12, the source of cash and transaction at multi commodity could not be verified. After recording reasons under the provisions of section 147 of the Act, the AO issued notice u/s 148 of the Act dated 30<sup>th</sup> March, 2018. The assessee, in response to the same, filed its return of income on 17<sup>th</sup> December, 2018, declaring the total income at Rs.1,72,634/-. The AO completed the assessment determining the total income of the assessee at Rs.24,22,634/- wherein he made an addition of Rs.22,50,000/- being unexplained cash deposited in his bank account as unexplained income from undisclosed sources. Since the assessee did not appear before the CIT(A) despite three notices issued by him, the ld.CIT(A), in his ex parte order, dismissed the appeal filed by the assessee.

4. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

5. The Id. Counsel, at the outset, submitted that due to non-receipt of notice, the assessee could not appear before the CIT(A). He submitted that in the interest of justice, the assessee should be given an opportunity to substantiate his case before the CIT(A). In absence of any objection from the side of the Id. DR and considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the Ld. CIT(A) with a direction to grant one final opportunity to the assessee to explain his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) and explain his case, failing which the Id.CIT(A) is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

The decision was pronounced in the open court at the time of hearing itself i.e., on 20.05.2021.

Sd/-  
(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 20<sup>th</sup> May, 2021.

dk

Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi