

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC-1" : DELHI
[THROUGH VIDEO CONFERENCING]

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA.No.479/Del./2020
Assessment Year 2011-2012

Shri Mahender Pal Tyagi, RZ-B-115, Nihal Vihar, Nangloi, New Delhi – 110 041. PAN AJUPT5186D	vs.	The Income Tax Officer, Ward-42(3), New Delhi – 110 002.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri R.K. Gupta, Sr. D.R.

Date of Hearing :	16.06.2021
Date of Pronouncement :	16.06.2021

ORDER

This appeal filed by the Assessee is directed against the ex-parte Order dated 17.06.2019 of the Ld. CIT(A)-14, New Delhi, relevant to the A.Y. 2011-2012.

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

Rs.18,61,000/- made by the A.O. under section 69A of the I.T. Act, 1961.

3 An adjournment application was filed seeking for adjournment of the case. However, considering the fact that ex-parte Orders were passed by the A.O. as well as the Ld. CIT(A), therefore, the adjournment application was rejected and appeal of assessee is disposed of on the basis of the material available on record and after hearing the Ld. D.R.

4. The facts of the case are that assessee is an individual and had not filed his return of income for the impugned assessment year. Since the assessee has deposited cash of Rs.18,61,000/- in S.B. A/c as per the information available with the A.O, he reopened the case under section 147 of the I.T. Act after recording reasons. Notice under section 148 of the I.T. Act was issued by the A.O. which was duly served upon the assessee. However, no return of income was filed in response to the notice under section 148. The subsequent notices issued under section 142(1) were also remained un-complied with. The A.O. thereafter issued various notices but still there was no

compliance from the side of the assessee. In view of the above the A.O. completed the assessment under section 144 of the I.T. Act wherein he determined the income of assessee at Rs.18,61,000/- being unexplained cash deposited in the S.B. A/c. No.xxx0807 maintained with Bank of India, Ward-6, Pathsala Khekra, Lucknow, Uttar Pradesh-250 101.

4.1. Since the assessee did not appear before the Ld. CIT(A) despite 03 opportunities granted, the Ld. CIT(A) in the ex-parte order passed by her dismissed the appeal of the assessee.

5. Aggrieved by the said order of the Ld. CIT(A), the assessee filed the present appeal before the Tribunal.

6. I have heard the Ld. D.R. and perused the material available on record. It is an admitted fact that due to non-appearance of the assessee and non-compliance to the statutory notices issued by the A.O, the assessment in the instant case was completed under section 144 of the I.T. Act, 1961, determining the total income of assessee at Rs.18,61,000/- by treating the cash deposited in S.B. A/c.

as unexplained. Since the assessee did not appear before the Ld. CIT(A), the Ld. CIT(A) in the ex-parte order passed by her dismissed the appeal of assessee.

7. Considering the totality of the facts and circumstances 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 substantiate his case and decide the issue as per facts and Law. The assessee is also hereby directed to appear before the Ld. CIT(A) to substantiate his case without seeking any adjournment under any pretext, failing which, the Ld. CIT(A) is at liberty to pass appropriate orders as per Law. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, appeal of the Assessee allowed for statistical purposes.

Order pronounced in the open Court at the time
of hearing itself i.e., on 16.06.2021.

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

Delhi, Dated 16th June, 2021

VBP/-

Copy to

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

// By Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.