

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.9402/Del/2019
Assessment Year: 2011-12

Vijay Dhawan, HUF,
196, Kalyan Vihar,
New Delhi.

Vs ITO,
Ward-36(4),
New Delhi.

PAN : AACHV4494F

(Appellant)

(Respondent)

Assessee by	:	Shri Sooraj Sharma, CA
Revenue by	:	Shri R.K. Gupta, Sr. DR
Date of Hearing	:	15.06.2021
Date of Pronouncement	:	15.06.2021

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the ex parte order dated 22.09.2019 of the CIT(A)-12, New Delhi, relating to the assessment year 2011-12.

2. Although a number of grounds have been raised by the assessee, these all relate to the ex parte order of the CIT(A) in confirming the validity of the reassessment proceedings and sustaining the addition made by the AO totaling to Rs.18,14,730/-.

3. Facts of the case, in brief, are that the assessee is an HUF. In this case, AIR information was obtained that the assessee had made share and commodity

transactions with multi-commodity exchange amounting to Rs.10,13,11,74,027/- during the F.Y. 2010-11 relating to A.Y. 2011-12 and has not filed return of income for the year under consideration. The AO, thereafter reopened the assessment u/s 147 after recording reasons and notice u/s 148 was issued. Subsequently, notice u/s 142(1) was also issued. However, there was non-compliance from the side of the assessee. The AO, thereafter, invoking the provisions of section 144 of the Act, determined the total income of the assessee at Rs.18,14,730/- wherein he made an addition of Rs.10,36,845/- being profit from commodity transactions with MCX, an addition of Rs.5 lakh on account of possible leakage of revenue losses made by the assessee and an amount of Rs.2,75,883/- being the margin money required for transactions in MCX. Since there was non-compliance from the side of the assessee, the Id.CIT(A), in the ex parte order passed by him, 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. I have heard the rival arguments made by both the sides and perused the record. It is an admitted fact that due to non-compliance to the statutory notices, the AO passed the order u/s 144/147, determining the total income of the assessee at Rs.18,14,730/-. Since there was non-compliance before the CIT(A) despite number of opportunities granted, the Id.CIT(A), in the ex parte order passed by him, sustained the addition made by the AO. It is the submission of the Id.

Counsel for the assessee that given an opportunity, the assessee is in a position to substantiate its case before the AO. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue back to the file of the CIT(A) with a direction to grant one final opportunity to the assessee to substantiate its case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) and explain its case without seeking any adjournment under any pretext 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 order was pronounced in the open court on conclusion of the hearing itself, i.e., on 15th June, 2021.

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

Dated: 15th June, 2021.

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi